93D CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
No. 93-763

ENERGY EMERGENCY ACT

JANUARY 22, 1974.—Ordered to be printed

Mr. STAGGERS, from the committee of conference,

CONFERENCE REPORT

[To accompany S. 2589]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act, including the following table of contents, may be cited as the "Energy Emergency Act".

TABLE OF CONTENTS

99-006

TITLE I—ENERGY EMERGENCY AUTHORITIES

SEC. 101. FINDINGS AND PURPOSES.

(a) (1) The Congress hereby determines that—

(A) shortages of crude oil, residual fuel oil, and refined petroleum products caused by insufficient domestic refining capacity, inadequate domestic production, environmental constraints, and the unavailability of imports sufficient to satisfy domestic demand, now exist;

(B) such shortages have created or will create severe economic dislocations and hardships;

(C) such shortages and dislocations jeopardize the normal flow of interstate and foreign commerce and constitute an energy emergency which can be averted or minimized most efficiently and effectively through prompt action by the executive branch of Government;

(D) disruptions in the availability of imported energy supplies, particularly crude oil and petroleum products, pose a serious risk to national security, economic well-being, and health and welfare of the American people;

(E) because of the diversity of conditions, climate, and available fuel mix in different areas of the Nation, a primary governmental responsibility for developing and enforcing energy emer-

gency measures lies with the States and with the local governments of major metropolitan areas acting in accord with the provisions of this Act; and

(F) the protection and fostering of competition and the prevention of anticompetitive practices and effects are vital during the energy emergency.

(2) On the basis of the determinations specified in subparagraphs (A) through (F) of paragraph (1) of this subsection, the Congress hereby finds that current and imminent fuel shortages have created a nationwide energy emergency.

(b) The purposes of this Act are to call for proposals for energy emergency rationing and conservation measures and to authorize specific temporary emergency actions to be exercised, subject to congressional review and right of approval or disapproval, to assure that the essential needs of the United States for fuels will be met in a manner which, to the fullest extent practicable: (1) is consistent with existing national commitments to protect and improve the environment; (2) minimizes any adverse impact on employment; (3) provides for equitable treatment of all sectors of the economy; (4) maintains vital services necessary to health, safety, and public welfare; and (5) insures against anticompetitive practices and effects and preserves, enhances, and facilitates competition in the development, production, transportation, distribution, and marketing of energy resources.

SEC. 102. DEFINITIONS.

For purposes of this Act:

(1) The term "State" means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

(2) The term "petroleum product" means crude oil, residual fuel oil, or any refined petroleum product (as defined in the Emergency Petroleum Allocation Act of 1973).

(3) The term "United States" when used in the geographical sense means the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(4) The term "Administrator" means the Administrator of the Federal Energy Emergency Administration.

SEC. 103. FEDERAL ENERGY EMERGENCY ADMINISTRATION.

(a) There is hereby established until May 15, 1975, unless superseded prior to that date by law, a Federal Energy Emergency Administration which shall be temporary and shall be headed by a Federal Energy Emergency Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. Vacancies in the office of Administrator shall be filled in the same manner as the original appointment.

(b) The Administrator shall be compensated at the rate provided for level II of the Executive Schedule. Subject to the Civil Service and Classification provisions of title 5, United States Code, the Administrator may employ such personnel as he deems necessary to carry out his functions.

(c) Effective on the date on which the Administrator first takes office (or, if later, on January 1, 1974), all functions, powers, and du-

ties of the President under sections 4, 5, 6, and 9 of the Emergency Petroleum Allocation Act of 1973 (as amended by this Act), and of any officer, department, agency, or State (or officer thereof) under such sections (other than functions vested by section 6 of such Act in the Federal Trade Commission, the Attorney General, or the Antitrust Division of the Department of Justice), are transferred to the Administrator. All personnel, property, records, obligations, and commitments used primarily with respect to functions transferred under the preceding sentence shall be transferred to the Administrator.

(d)(1) Whenever the Federal Energy Emergency Administration submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that estimate or request to the Congress.

(2) Whenever the Federal Energy Emergency Administration submits any legislative recommendations or testimony or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Federal Energy Emergency Administration to submit its legislative recommendations, or testimony or comments to any officer or agency of the United States for approval, comments, or review prior to the submission of such recommendations, testimony, or comments to the Congress.

(3) The Federal Energy Emergency Administration shall be considered an independent regulatory agency for purposes of chapter 35 of title 44, United States Code, but not for any other purpose.

SEC. 104. END-USE RATIONING.

Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsection:

"(h)(1) The President may promulgate a rule which shall be deemed a part of the regulation under subsection (a) and which shall provide, consistent with the objectives of subsection (b), for the establishment of a program for the rationing and ordering of priorities among classes of end-users of crude oil. residual fuel oil, or any refined petroleum product, and for the assignment to end-users of such products of rights, and evidence of such rights, entitling them to obtain such products in precedence to other classes of end-users not similarly entitled.

"(2) The rule under this subsection shall take effect only if the President finds that, without such rule, all other practicable and authorized methods to limit energy demand will not achieve the objectives of section 4(b) of this Act and of the Energy Emergency Act.

"(3) The President shall, by order, in furtherance of the rule authorized pursuant to paragraph (1) of this subsection and consistent with the attainment of the objectives in subsection (b) of this section, cause such adjustments in the allocations made pursuant to the regulation under subsection (a) as may be necessary to carry out the purposes of this subsection.

"(4) The President shall provide for procedures by which any end-user of crude oil, residual fuel oil or refined petroleum products for which priorities and entitlements are established under paragraph (1) of this subsection may petition for review and reclassification or modi-

fication of any determination made under such paragraph with respect to his rationing priority or entitlement. Such procedures may include procedures with respect to such local boards as may be authorized to carry out functions under this subsection pursuant to section 122 of the Energy Emergency Act.

"(5) No rule or order under this section may impose any tax or user fee, or provide for a credit or deduction in computing any tax."

SEC. 105. ENERGY CONSERVATION PLANS.

(a)(1)(A) Pursuant to the provisions of this section, the Administrator is authorized to promulgate by regulation one or more energy conservation plans in accord with this section which shall be designed (together with actions taken and proposed to be taken under other authority of this or other Acts) to result in a reduction of energy consumption to a level which can be supplied by available energy resources. For purposes of this section, the term "energy conservation plan" means a plan for transportation controls (including but not limited to highway speed limits) or such other reasonable restrictions on the public or private use of energy (including limitations on energy consumption of businesses) which are necessary to reduce energy consumption and which are authorized by this Act.

(B) No energy conservation plan promulgated by regulation under this section may impose rationing or any tax or user fee, or provide for a credit or deduction in computing any tax.

(2) An energy conservation plan shall become effective as provided for in subsection (b). Such a plan shall apply in each State, except as otherwise provided in an exemption granted pursuant to the plan in cases where a comparable State or local program is in effect, or where the Administrator finds special circumstances exist.

(3) An energy conservation plan may not deal with more than one logically consistent subject matter.

(4) An amendment to an energy conservation plan, if it has significant substantive effect, shall be transmitted to Congress and shall be effective only in accordance with subsection (b). Any amendment which does not have significant substantive effect and any rescission of a plan may be made effective in accordance with section 553 of title 5, United States Code.

(5) Subject to subsection (b)(3), provision of an energy conservation plan shall remain in effect for a period specified in the plan unless earlier rescinded by the Administrator, but shall terminate in any event no later than May 15, 1975.

(b)(1) For purposes of this subsection, the term "energy conservation plan" means a plan promulgated by regulation proposed under subsection (a) of this section or an amendment thereto which has significant substantive effect.

(2) The Administrator shall transmit any energy conservation plan (bearing an identification number) to each House of Congress on the date on which it is promulgated.

(3)(A) If an energy conservation plan is transmitted to Congress before March 1, 1974, and provides for an effective date earlier than March 1, 1974, such plan shall take effect on the date provided in the plan; but if either House of the Congress, before the end of the first period of 15 calendar days of continuous session of Congress after the date on which such plan is transmitted to it, passes a resolution stating

in substance that such House does not favor such plan, such plan shall cease to be effective on the date of passage of such resolution.

(B) If an energy conservation plan is transmitted to the Congress and provides for an effective date on or after March 1, 1974 and before July 1, 1974, such plan shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which such plan is transmitted to it unless, between the date of transmittal and the end of the 15-day period, either House passes a resolution stating in substance that such House does not favor such plan.

(C) An energy conservation plan proposed to be made effective on or after July 1, 1974, shall take effect only if approved by Act of Congress.

(4) For the purpose of paragraph (3) of this subsection—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the 15-day period.

(5) Under provisions contained in an energy conservation plan, a provision of the plan may take effect at a time later than the date on which such plan otherwise is effective.

(c) (1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(2) For the purpose of this subsection, "resolution" means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the ———— does not favor the energy conservation plan numbered ———— transmitted to Congress by the Administrator of the Federal Energy Emergency Administration on ————, 19—.", the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one energy conservation plan.

(3) A resolution with respect to an energy conservation plan shall be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4) (A) If the committee to which a resolution with respect to an energy conservation plan has been referred has not reported it at the end of 5 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the

resolution or to discharge the committee from further consideration of any other resolution with respect to such energy conservation plan which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same energy conservation plan), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(C) If the motion, to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same plan.

(5)(A) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to an energy conservation plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution with respect to an energy conservation plan, and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to an energy conservation plan shall be decided without debate.

(d)(1) In carrying out the provisions of this Act, the Administrator shall, to the greatest extent practicable, evaluate the potential economic impacts of proposed regulatory and other actions including but not limited to the preparation of an analysis of the effect of such actions on—

(A) the fiscal integrity of State and local government;

(B) vital industrial sectors of the economy;

(C) employment, by industrial and trade sector, as well as on a national, regional, State, and local basis;

(D) the economic vitality of regional, State, and local areas;

(E) the availability and price of consumer goods and services;

(F) the gross national product;

(G) competition in all sectors of industry; and

(H) small business.

(2) The Administrator shall develop analyses of the economic impact of any energy conservation plan on States or significant sectors thereof, considering the impact on energy resources as fuel and as feedstock for industry.

(3) Such analysis shall, whenever possible, be made explicit and, to the extent practicable, other Federal agencies and agencies of State and local governments which have special knowledge and expertise relevant to the impact of proposed regulatory or other actions shall be consulted in making the analyses, and all Federal agencies shall cooperate with the Administrator in preparing such analyses except that the Administrator's actions pursuant to this subsection shall not create any right of review or cause of action except as otherwise exist under other provisions of law.

(4) The Administrator, together with the Secretaries of Labor and Commerce, shall monitor the economic impact of any energy actions taken by the Administrator, and shall provide the Congress with separate reports every thirty days on the impact of the energy shortage and such emergency actions on employment and the economy.

(e) Any energy conservation plan which the Administrator submits to the Congress pursuant to subsection (b) of this section shall include findings of fact and a specific statement explaining the rationale for each provision contained in such plan.

SEC. 106. COAL CONVERSION AND ALLOCATION.

(a) The Administrator shall, to the extent practicable and consistent with the objectives of this Act, by order, after balancing on a plant-by-plant basis the environmental effects of use of coal against the need to fulfill the purposes of this Act, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this Act, has the capability and necessary plant equipment to burn coal. Any installation to which such an order applies shall be permitted to continue to use coal as provided in section 119(b) of the Clean Air Act. To the extent coal supplies are limited to less than the aggregate amount of coal supplies which may be necessary to satisfy the requirements of those installations which can be expected to use coal (including installations to which orders may apply under this subsection), the Administrator shall prohibit the use of natural gas and petroleum products for those installations where the use of coal will have the least adverse environmental impact. A prohibition on use of natural gas and petroleum products under this subsection shall be contingent upon the availability of coal, coal transportation facilities, and the maintenance of reliabilty of service in a given service area. The Administrator shall require that fossil-fuel-fired electric powerplants in the early planning process, other than combustion gas turbine and combined cycle units, be designed and constructed so as to be capable of using coal as a primary energy source instead of or in addition to other fossil fuels. No fossil-fuel-fired electric powerplant may be required under this section to be so designed and constructed, if (1) to do so would result in an impairment of reliability or adequacy of service, or (2) if an adequate and reliable supply of coal is not avail-

able and is not expected to be available. In considering whether to impose a design and construction requirement under this subsection, the Administrator shall consider the existence and effects of any contractual commitment for the construction of such facilities and the capability of the owner or operator to recover any capital investment made as a result of the conversion requirements of this section.

(b) The Administrator may by rule prescribe a system for allocation of coal to users thereof in order to attain the objectives specified in this section.

SEC. 107. MATERIALS ALLOCATION.

(a) The Administrator shall, within 30 days after the date of enactment of this Act, propose (in the nature of a proposed rule affording an opportunity for the presentation of views) and publish (and may from time to time amend) a contingency plan for allocation of supplies of materials and equipment necessary for exploration, production, refining, and required transportation of energy supplies and for the construction and maintenance of energy facilities. At such time as he finds that it is necessary to put all or part of such plan into effect, he shall transmit such plan or portion thereof to each House of Congress and such plan or portion thereof shall take effect in the same manner as an energy conservation plan prescribed under section 105 and to which section 105(b)(3)(B) applies (except that such plan may be submitted at any time after the date of enactment of this Act and before May 15, 1975).

(b) Section 4(b)(1)(G) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction of—

"(i) fuels, and

"(ii) minerals essential to the requirements of the United States,

and for required transportation related thereto,"

SEC. 108. FEDERAL ACTIONS TO INCREASE AVAILABLE DOMESTIC PETROLEUM SUPPLIES.

(a) The Administrator may initiate the following measures to supplement domestic energy supplies for the duration of the emergency:

(1) require by order or rule, the production of designated existing domestic oilfields, at their maximum efficient rate of production, which is the maximum rate at which production may be sustained without detriment to the ultimate recovery of oil and gas under sound engineering and economic principles. Such fields are to be designated by the Secretary of the Interior, after consultation with the appropriate State regulatory agency. Data to determine the maximum efficient rate of production shall be supplied to the Secretary of the Interior by the State regulatory agency which determines the maximum efficient rate of production and by the operators who have drilled wells in, or are producing oil and gas from such fields;

(2) require, if necessary to meet essential energy needs, production of certain designated existing domestic oilfields at rates in excess of their currently assigned maximum efficient rates. Fields to be so designated, by the Secretary of the Interior or the Secretary of the Navy as to the Federal lands or as to Federal interests in lands under their respective jurisdiction, shall be those fields where the types and quality of reservoirs are such as to permit production at rates in excess of the currently assigned sustainable maximum efficient rate for periods of ninety days or more without exessive risk of losses in recovery;

(3) require the adjustment of processing operations of domestic refineries to produce refined products in proportions commensurate with national needs and consistent with the objectives of section 4(b) of the Emergency Petroleum Allocation Act of 1973.

(b) Nothing in this section shall be construed to authorize the production of any Naval Petroleum Reserve now subject to the provisions of chapter 641 of title 10 of the United States Code.

SEC. 109. OTHER AMENDMENTS TO THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973.

(a) Section 4 of the Emergency Petroleum Allocation Act of 1973 as amended by section 104 of this Act is amended by adding at the end of such section the following new subsection:

> *"(i) If any provision of the regulation under subsection (a) provides that any allocation of residual fuel oil or refined petroleum products is to be based on use of such a product or amounts of such product supplied during a historical period, the regulation shall contain provisions designed to assure that the historical period can be adjusted (or other adjustments in allocations can be made) in order to reflect regional disparities in use, population growth or unusual factors influencing use (including unusual changes in climatic conditions), of such oil or product in the historical period. This subsection shall take effect 30 days after the date of enactment of the Energy Emergency Act. Adjustments for such purposes shall take effect no later than 6 months after the date of enactment of this subsection. Adjustments to reflect population growth shall be based upon the most current figures available from the United States Bureau of the Census."*

(b) Section 4(g)(1) of the Emergency Petroleum Allocation Act of 1973 is amended by striking out "February 28, 1975" in each case the term appears and inserting in each case "May 15, 1975".

SEC. 110. PROHIBITION ON WINDFALL PROFITS—PRICE GOUGING.

(a)(1) The President shall exercise his authority under the Emergency Petroleum Allocation Act of 1973 and under the Economic Stabilization Act of 1970 so as to specify prices for sales of petroleum products produced in or imported into the United States, which avoid windfall profits by sellers.

(2) Any interested person, who has reason to believe that any price (specified under any of the authorities referred to in paragraph (1) of this subsection) of petroleum products permits a seller thereof any windfall profits, may petition the Renegotiation Board (created by

section 107(a) of the Renegotiation Act of 1951 and hereinafter in this subsection referred to as the "Board") for a determination under subparagraph (A) or (B) or paragraph (3).

(3)(A) Upon petition of any interested person, the Board may by rule determine, after opportunity for oral presentation of views, data, and arguments, whether the price (specified under any of the authorities referred to in paragraph (1)) of petroleum product permits sellers thereof to receive windfall profits. Upon a final determination of the Board that such price permits windfall profits to be so received, it shall specify a price for such sales which will not permit such profits to be received by such sellers. After such a final determination, no higher price may be specified (under any of the authorities specified in paragraph (1)) except with the approval of the Board.

(B) Upon petition of any interested person and notwithstanding any proceeding or determination under subparagraph (A), the Board may determine whether the price charged by a particular seller of any petroleum product permitted such seller to receive windfall profits. If, on the basis of such petition, the Board has reason to believe that such price has permitted such seller to receive windfall profits, it may order such seller to take such actions (including the escrowing of funds) as it may deem appropriate to assure that sufficient funds will be available for the refund of windfall profits in the event there is a final determination by the Board under this subparagraph that such seller has received windfall profits. Prior to a final determination under this subparagraph, such seller shall be afforded a hearing in accordance with the procedures required by section 554 of title 5, United States Code. Upon a final determination of the Board that such price permitted such seller to receive windfall profits, the Board shall order such seller to refund an amount equal to such windfall profits to the persons who have purchased from such seller at prices which resulted in such windfall profits. If such persons are not reasonably ascertainable, the Board shall order the sellers for the purpose of refunding such profits, to reduce the price for future sales, to create a fund against which previous purchasers of such item may file a claim under rules which shall be prescribed by the Board, or to take such other action as the Board may deem appropriate.

(C) Notwithstanding section 108 of the Renegotiation Act of 1951 and section 211 of the Economic Stabilization Act of 1970, any final determination under subparagraph (A) or (B) shall be subject to judicial review in accordance with sections 701 through 706 of title 5, United States Code.

(4)(A) The Board may provide, in its discretion under regulations prescribed by the Board, for such consolidation as may be necessary or appropriate to carry out the purposes of this subsection.

(B) The Board may make such rules, regulations, and orders as it deems necessary or appropriate to carry out its functions under this subsection.

(5) The determination and approval authority of the Board under this paragraph may not be delegated or redelegated pursuant to section 107(d) of the Renegotiation Act of 1951 to any agency of the Government other than an agency established by the Board.

(6) For the purposes of subparagraph (B) of paragraph (3), the term "windfall profits" means that profit (during an appropriate accounting period as determined by the Board) derived from the sale of any petroleum product determined by the Board to be in excess of the lesser of—

(A) a reasonable profit with respect to the particular seller as determined by the Board upon consideration of—

(i) the reasonableness of its costs and profits with particular regard to volume of production;

(ii) the net worth, with particular regard to the amount and source of capital employed;

(iii) the extent of risk assumed;

(iv) the efficiency and productivity, particularly with regard to cost reduction techniques and economies of operation; and

(v) other factors the consideration of which the public interest and fair and equitable dealing may require which may be established and published by the Board; or

(B) the greater of—

(i) the average profit obtained by sellers for such products during the calendar years 1967 through 1971; or

(ii) the average profit obtained by the particular seller for such products during such calendar years.

(7) Except as provided in paragraph (6), for the purposes of this subsection, the term "windfall profits" means profit in excess of the average profit obtained by all sellers for such products during the calendar years 1967 through 1971.

(8) For the purposes of this subsection, the term "interested person" includes the United States, any State, and the District of Columbia.

(9) This subsection shall not apply to the first sale of crude oil described in subsection (e)(2) of this section (relating to stripper wells).

(10) This section shall take effect on January 1, 1975, and shall apply to profits attributable to any price (specified under any of the authorities referred to in paragraph (1) of this subsection) of crude oil, residual fuel oil, and refined petroleum products in effect after December 31, 1973.

(b) Notwithstanding any other provision of law, administrative proceedings before the Board under this section shall be governed by subchapter II of chapter 5 of title 5, United States Code, and such proceedings shall be reviewed in accordance with chapter 7 of such title.

SEC. 111. PROTECTION OF FRANCHISED DEALERS.

(a) As used in this section:

(1) The term "distributor" means a person engaged in the sale, consignment, or distribution of petroleum products to wholesale or retail outlets whether or not it owns, leases, or in any way controls such outlets.

(2) The term "franchise" means any agreement or contract between a refiner or a distributor and a retailer or between a refiner and a distributor, under which such retailer or distributor is granted authority to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or distributor, or any agreement or contract between such parties under which such retailer or distributor is granted authority to occupy premises owned, leased, or in any way controlled by a party to such

agreement or contract, for the purpose of engaging in the distribution or sale of petroleum products for purposes other than resale.

(3) The term "notice of intent" means a written statement of the alleged facts which, if true, constitute a violation of subsection (b) of this section.

(4) The term "refiner" means a person engaged in the refining or importing of petroleum products.

(5) The term "retailer" means a person engaged in the sale of any refined petroleum product for purposes other than resale within any State, either under a franchise or independent of any franchise, or who was so engaged at any time after the start of the base period.

(b)(1) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless he furnishes prior notification pursuant to this paragraph to each distributor or retailer affected thereby. Such notification shall be in writing and sent to such distributor or retailer by certified mail not less than ninety days prior to the date on which such franchise will be canceled, not renewed, or otherwise terminated. Such notification shall contain a statement of intention to cancel, not renew, or to terminate together with the reasons therefor, the date on which such action shall take effect, and a statement of the remedy or remedies available to such distributor or retailer under this section together with a summary of the applicable provisions of this section.

(2) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless the retailer or distributor whose franchise is terminated failed to comply substantially with any essential and reasonable requirement of such franchise or failed to act in good faith in carrying out the terms of such franchise, or unless such refiner or distributor withdraws entirely from the sale of refined petroleum products in commerce for sale other than resale in the United States.

(c)(1) If a refiner or distributor engages in conduct prohibited under subsection (b) of this section, a retailer or a distributor may maintain a suit against such refiner or distributor. A retailer may maintain such suit against a distributor or a refiner whose actions affect commerce and whose products with respect to conduct prohibited under paragraphs (1) or (2) of subsection (b) of this section, he sells or has sold, directly or indirectly, under a franchise. A distributor may maintain such suit against a refiner whose actions affect commerce and whose products he purchases or has purchased or whose products he distributes or has distributed to retailers.

(2) The court shall grant such equitable relief as is necessary to remedy the effects of conduct prohibited under subsection (b) of this section which it finds to exist including declaratory judgment and mandatory or prohibitive injunctive relief. The court may grant interim equitable relief, and actual and punitive damages (except for actions for a failure to renew) where indicated, in suits under this section, and may, unless such suit is frivolous, direct that costs, including reasonable attorney and expert witness fees, be paid by the defendant. In the case of actions for a failure to renew damages shall be limited to actual damages including the value of the dealer's equity.

(3) A suit under this section may be brought in the district court of the United States for any judicial district in which the distributor or the refiner against whom such suit is maintained resides, is found, or is doing business, without regard to the amount in controversy. No such suit shall be maintained unless commenced within three years after the cancellation, failure to renew, or termination of such franchise or the modification thereof.

SEC. 112. PROHIBITIONS ON UNREASONABLE ACTIONS.

(a) Action taken under authority of this Act, the Emergency Petroleum Allocation Act of 1973, or other Federal law resulting in the allocation of petroleum products and electrical energy among classes of users or resulting in restrictions on use of petroleum products and electrical energy, shall be equitable, shall not be arbitrary or capricious, and shall not unreasonably discriminate among classes of users: Provided, That with respect to allocations of petroleum products applicable to the foreign trade and commerce of the United States, no foreign corporation or entity shall receive more favorable treatment in the allocation of petroleum products than that which is accorded by its home country to United States citizens engaged in the same line of commerce, and allocations shall contain provisions designed to foster reciprocal and non-discriminatory treatment by foreign countries of United States citizens engaged in foreign commerce.

(b) To the maximum extent practicable, any restriction on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden of such restriction on all sectors of the economy, without imposing an unreasonably disproportionate share of such burden on any specific industry, business or commercial enterprise, or on any individual segment thereof and shall give due consideration to the needs of commercial, retail, and service establishments whose normal function is to supply goods and services of an essential convenience nature during times of day other than conventional daytime working hours.

SEC. 113. REGULATED CARRIERS.

(a) The Interstate Commerce Commission (with respect to common or contract carriers subject to economic regulation under the Interstate Commerce Act), the Civil Aeronautics Board, and the Federal Maritime Commission shall, for the duration of the period beginning on the date of enactment of this Act and ending on May 15, 1975, have authority to take any action for the purpose of conserving energy consumption in a manner found by such Commission or Board to be consistent with the objectives and purposes of the Acts administered by such Commission or Board on its own motion or on the petition of the Administrator which existing law permits such Commission or Board to take upon the motion or petition of any regulated common or contract carrier or other person.

(b) The Interstate Commerce Commission shall, by expedited proceedings, adopt appropriate rules under the Interstate Commerce Act which eliminate restrictions on the operating authority of any motor common carrier of property which require excessive travel between

points with respect to which such motor common carrier has regularly performed service under authority issued by the Commission. Such rules shall assure continuation of essential service to communities served by any such motor common carrier.

(c) Within 45 days after the date of enactment of this Act, the Civil Aeronautics Board, the Federal Maritime Commission, and the Interstate Commerce Commission shall report separately to the appropriate committees of the Congress on the need for additional regulatory authority in order to conserve fuel during the period beginning on the date of enactment of this Act and ending on May 15, 1975 while continuing to provide for the public convenience and necessity. Each such report shall identify with specificity—

(1) the type of regulatory authority needed;

(2) the reasons why such authority is needed;

(3) the probable impact on fuel conservation of such authority;

(4) the probable effect on the public convenience and necessity of such authority; and

(5) the competitive impact, if any, of such authority.

Each such report shall further make recommendations with respect to changes in any existing fuel allocation programs which are deemed necessary to provide for the public convenience and necessity during such period.

SEC. 114. ANTITRUST PROVISIONS.

(a) Except as specifically provided in subsection (i), no provision of this Act shall be deemed to convey to any person subject to this Act any immunity from civil and criminal liability or to create defenses to actions, under the antitrust laws.

(b) As used in this section, the term "antitrust laws" means—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), as amended;

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

(4) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(c) (1) To achieve the purposes of this Act, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. App. I), whether or not such Act or any of its provisions expires or terminates during the term of this Act or of such committees, and in all cases shall be chaired by a regular full-time Federal employee and shall include representatives of the public. The meetings of such committees shall be open to the public.

(2) A representative of the Federal Government shall be in attendance at all meetings of any advisory committee established pursuant to this section. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings, and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be made available for public inspection and copying, subject to the provisions of sections 552 (b)(1) and (b)(3) of title 5, United States Code.

(d) The Administrator, subject to the approval of the Attorney General and the Federal Trade Commission, shall promulgate, by rule, standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil or any refined petroleum product may develop and implement voluntary agreements and plans of action to carry out such agreements which the Administrator determines are necessary to accomplish the objectives stated in section 4(b) of the Emergency Petroleum Allocation Act of 1973.

(e) The standards and procedures under subsection (d) shall be promulgated pursuant to section 553 of title 5, United States Code. They shall provide, among other things, that—

(1) Such agreements and plans of action shall be developed by meetings of committees, councils, or other groups which include representatives of the public, of interested segments of the petroleum industry and of industrial, municipal and private consumers, and shall in all cases be chaired by a regular full-time Federal employee.

(2) Meetings held to develop a voluntary agreement or a plan of action under this subsection shall permit attendance by interested persons and shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission and to the public in the affected community;

(3) Interested persons shall be afforded an opportunity to present, in writing and orally, data, views and arguments at such meetings;

(4) A full and complete verbatim transcript shall be kept of any meeting, conference or communication held to develop, implement or carry out a voluntary agreement or a plan of action under this subsection and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be available for public inspection and copying, subject to provisions of section 552 (b)(1) and (b)(3) of title 5, United States Code.

(f) The Federal Trade Commission may exempt types or classes of meetings, conferences or communications from the requirements of subsection (c)(3) and (e)(4) provided such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of implementing or carrying out a voluntary agreement or plan of

action authorized pursuant to this section. Such ministerial meeting, conference or communication may take place in accordance with such requirements as the Federal Trade Commission may prescribe by rule. Such persons participating in such meeting, conference or communication shall cause a record to be made specifying the date such meeting, conference, or communication took place and the persons involved, and summarizing the subject matter discussed. Such record shall be filed with the Federal Trade Commission and the Attorney General, where it shall be made available for public inspection and copying.

(g) (1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, implementation and carrying out of voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this Act. Each shall have the right to review, amend, modify, disapprove, or prospectively revoke, on its own motion or upon the request of any interested person, any plan of action or voluntary agreement at any time, and, if revoked, thereby withdraw prospectively the immunity conferred by subsection (i) of this section.

(2) Any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented, where it shall be made available for public inspection and copying.

(h) (1) The Attorney General and the Federal Trade Commission shall monitor the development, implementation and carrying out of plans of action and voluntary agreements authorized under this section to assure the protection and fostering of competition and the prevention of anticompetitive practices and effects.

(2) The Attorney General and the Federal Trade Commission shall promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts and other records related to the development, implementation or carrying out of plans of action or voluntary agreements authorized pursuant to this Act.

(3) Persons developing, implementing or carrying out plans of action or voluntary agreements authorized pursuant to this Act shall maintain those records required by such joint regulations. The Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and upon reasonable notice.

(4) The Federal Trade Commission and the Attorney General may each prescribe such rules and regulations as may be necessary or appropriate to carry out their responsibilities under this Act. They may both utilize for such purposes and for purposes of enforcement, any and all powers conferred upon the Federal Trade Commission or the Department of Justice, or both, by any other provision of law, including the antitrust laws; and wherever such provision of law refers to "the purposes of this Act" or like terms, the reference shall be understood to be this Act.

(i) There shall be available as a defense to any civil or criminal action brought under the antitrust laws in respect of actions taken in good faith to develop and implement a voluntary agreement or plan

of action to carry out a voluntary agreement by persons engaged in the business of producing, refining, marketing or distributing crude oil, residual fuel oil, for any refined petroleum product that—

(1) such action was—

(A) authorized and approved pursuant to this section, and

(B) undertaken and carried out solely to achieve the purposes of this section and in compliance with the terms and conditions of this section, and the rules promulgated hereunder; and

(2) such persons fully complied with the requirements of this section and the rules and regulations promulgated hereunder.

(j) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred: (1) prior to the enactment of this Act, (2) outside the scope and purpose or not in compliance with the terms and conditions of this Act and this section, or (3) subsequent to its expiration or repeal.

(k) Effective on the date of enactment of this Act, this section shall apply in lieu of section 6(c) of the Emergency Petroleum Allocation Act of 1973. All actions taken and any authority or immunity granted under such section 6(c) shall be hereafter taken or granted, as the case may be, pursuant to this section.

(l) The provisions of section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action authorized to be taken under this Act or the Emergency Petroleum Allocation Act of 1973.

(m) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every six months, a report on the impact on competition and on small business of actions authorized by this section.

(n) The authority granted by this section (including any immunity under subsection (i)) shall terminate on May 15, 1975.

(o) The exercise of the authority provided in section 113 shall not have as a principal purpose or effect the substantial lessening of competition among carriers affected. Actions taken pursuant to that subsection shall be taken only after providing from the beginning an adequate opportunity for participation by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division, who shall propose any alternative which would avoid or overcome, to the greatest extent practicable, any anticompetitive effects while achieving the purposes of this Act.

SEC. 115. EXPORTS.

To the extent necessary to carry out the purpose of this Act, the Administrator may under authority of this Act, by rule, restrict exports of coal, petroleum products, and petrochemical feedstocks, under such terms as he deems appropriate: Provided, That, the Administrator shall restrict exports of coal, petroleum products, or petrochemical feedstocks if either the Secretary of Commerce or the Secretary of Labor certifies that such exports would contribute to unemployment in the United States. The Secretary of Commerce, pursuant to the Export Administration Act of 1969 (but without regard to the phrase "and to reduce the serious inflationary impact of abnormal foreign de-

mand" in section 3(2)(A) of such Act), may restrict the exports of coal, petroleum products, and petrochemical feedstocks, and of materials and equipment essential to the production, transport, or processing of fuels to the extent necessary to carry out the purpose of this Act and sections 4(b) and 4(d) of the Emergency Petroleum Allocation Act of 1973: Provided, That in the event that the Administrator certifies to the Secretary of Commerce that export restrictions of products enumerated in this section are necessary to carry out the purpose of this Act, the Secretary of Commerce shall impose such export restrictions. Rules under this section by the Administrator and actions by the Secretary of Commerce under the Export Administration Act of 1969 shall take into account the historical trading relations of the United States with Canada and Mexico and shall not be inconsistent with subsections (b) and (d) of section 4 of the Emergency Petroleum Allocation Act of 1973.

SEC. 116. EMPLOYMENT IMPACT AND UNEMPLOYMENT ASSISTANCE.

(a) The President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment. All agencies of government shall cooperate fully under their existing statutory authority to minimize any such adverse impact.

(b) The President shall make grants to States to provide to any individual unemployed, if such unemployment resulted from the administration and enforcement of this Act and was in no way due to the fault of such individual, such assistance as the President deems appropriate while such individual is unemployed. Such assistance as a State shall provide under such a grant shall be available to individuals not otherwise eligible for unemployment compensation and individuals who have otherwise exhausted their eligibility for such unemployment compensation, and shall continue as long as unemployment in the area caused by such administration and enforcement continues (but not less than six months) or until the individual is reemployed in a suitable position, but not longer than two years after the individual becomes eligible for such assistance. Such assistance shall not exceed the maximum weekly amount under the unemployment compensation program of the State in which the employment loss occurred.

(c) On or before the sixtieth day following the date of enactment of this Act, the President shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers and shall include legislative recommendations which the President deems appropriate to meet such needs, including revisions in the unemployment insurance laws.

SEC. 117. USE OF CARPOOLS.

(a) The Secretary of Transportation shall encourage the creation and expansion of the use of carpools as a viable component of our nationwide transportation system. It is the intent of this section to maximize the level of carpool participation in the United States.

(b) The Secretary of Transportation is directed to establish within the Department of Transportation an "Office of Carpool Promotion" whose purpose and responsibilities shall include—

(1) responding to any and all requests for information and technical assistance on carpooling and carpooling systems from units of State and local governments and private groups and employees;

(2) promoting greater participation in carpooling through public information and the preparation of such materials for use by State and local governments;

(3) encouraging and promoting private organizations to organize and operate carpool systems for employees;

(4) promoting the cooperation and sharing of responsibilities between separate, yet proximately close, units of government in coordinating the operations of carpool systems; and

(5) promoting other such measures that the Secretary determines appropriate to achieve the goal of this subsection.

(c) The Secretary of Transportation shall encourage and promote the use of incentives such as special parking privileges, special roadway lanes, toll adjustments, and other incentives as may be found beneficial and administratively feasible to the furtherance of carpool ridership, and consistent with the obligations of the State and local agencies which provide transportation services.

(d) The Secretary of Transportation shall allocate the funds appropriated pursuant to the authorization of subsection (f) according to the following distribution between the Federal and State or local units of government:

(1) The initial planning process—up to 100 percent Federal.

(2) The systems design process—up 100 percent Federal.

(3) The initial startup and operation of a given system—60 percent Federal and 40 percent State or local with the Federal portion not to exceed 1 year.

(e) Within 12 months of the date of enactment of this Act, the Secretary of Transportation shall make a report to Congress of all his activities and expenditures pursuant to this section. Such report shall include any recommendations as to future legislation concerning carpooling.

(f) The sum of $5,000,000 is authorized to be appropriated for the conduct of programs designed to achieve the goals of this section, such authorization to remain available for 2 years.

(g) For purposes of this section, the terms "local governments" and "local units of government" include any metropolitan transportation organization designated as being responsible for carrying out section 134 of title 23, United States Code.

(h) As an example to the rest of our Nation's automobile users, the President of the United States shall take such action as is necessary to require all agencies of Government, where practical, to use economy model motor vehicles.

(i) (1) The President shall take action to require that no Federal official or employee in the executive branch below the level of Cabinet officer be furnished a limousine for individual use. The provisions of

this subsection shall not apply to limousines furnished for use by officers or employees of the Federal Bureau of Investigation, or to those persons whose assignments necessitate transportation by limousines because of diplomatic assignment by the Secretary of State.

(2) For purposes of this subsection, the term "limousine" means a type 6 vehicle as defined in the Interim Federal Specifications issued by the General Services Administration, December 1, 1973.

SEC. 118. ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.

(a) (1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule or order (including a rule or order issued by a State or officer thereof) under this title (except with respect to any rule or order pursuant to sections 108 and 113 of this Act, section 205 (a), (b), and (c), of this Act, or section 4(h) of the Emergency Petroleum Allocation Act of 1973) or under the authority of any energy conservation plan.

(2) Notice of any proposed rule or order described in paragraph (1) shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of ten days following such publication shall be provided for opportunity to comment; except that the requirements of this paragraph as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious impairment to the operation of the program to which such rule or order relates and such findings are set out in detail in such rule or order. In addition, public notice of all rules or orders promulgated by officers of a State or political subdivision thereof or to State or local boards pursuant to this Act shall to the maximum extent practicable be achieved by publication of such rules or orders in a sufficient number of newspapers of statewide circulation calculated to receive widest possible notice.

(3) In addition to the requirements of paragraph (2), if any rule or order described in paragraph (1) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the implementation of such rule or order, but in all cases such opportunity shall be afforded no later than 45 days after the implementation of any such rule or order. A transcript shall be kept of any oral presentation.

(4) Any officer or agency authorized to issue rules or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act or the Emergency Petroleum Allocation Act of 1973 (as the case may be), as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in rules prescribed by it establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency

and may obtain judicial review in accordance with subsection (b) when such denial becomes final. The officer or agency shall, in rules prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this paragraph.

(5) In addition to the requirements of section 552 of title 5, United States Code, any agency authorized by this Act or the Emergency Petroleum Allocation Act of 1973 to issue rules or orders shall make available to the public all internal rules and guidelines which may form the basis, in whole or in part, for any rule or order with such modifications as are necessary to insure confidentiality protected under such section 552. Such agency shall, upon written request of a petitioner filed after any grant or denial of a request for exception or exemption from rules or orders furnish the petitioner with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial. Such opinions shall be made available to the petitioner and the public within thirty days of such request and with such modifications as are necessary to insure confidentiality of information protected under such section 552.

(b) (1) Judicial review of administrative rulemaking of general and national applicability done under this Act may be obtained only by filing a petition for review in the United States Court of Appeals for the District of Columbia within thirty days from the date of promulgation of any such rule or regulation, and judicial review of administrative rulemaking of general, but less than national, applicability done under this Act may be obtained only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within thirty days from the date of promulgation of any such rule or regulation, the appropriate circuit being defined as the circuit which contains the area or the greater part of the area within which the rule or regulation is to have effect.

(2) Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising under this Act, or under regulations or orders issued thereunder, except any actions taken by the Civil Aeronautics Board, the Interstate Commerce Commission, Federal Power Commission, or the Federal Maritime Commission, or any actions taken to implement or enforce any rule or order by any officer of a State or political subdivision thereof or State or local board which has been delegated authority under section 122 of this Act except that nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the constitutionality of this title or the validity of action taken by any agency under this Act). If in any such proceeding an issue by way of defense is raised based on the constitutionality of this Act or the validity of agency action under this Act, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 89 of title 28, United States Code. Cases or controversies arising under any rule or order of any officer of a State or political subdivision thereof or a State or local board may be heard in either (1) any appropriate State court,

and (2) without regard to the amount in controversy, the district courts of the United States.

(c) The Administrator may by rule prescribe procedures for State or local boards which carry out functions under this Act or the Emergency Petroleum Allocation Act of 1973. Such procedures shall apply to such boards in lieu of subsection (a), and shall require that prior to taking any action, such boards shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) at least 10 days before taking the action. Such boards shall be of balanced composition reflecting the makeup of the community as a whole.

SEC. 119. PROHIBITED ACTS.

It shall be unlawful for any person to violate any provision of title I of this Act (other than provisions of this Act which make amendments to the Emergency Petroleum Allocation Act of 1973 and section 113) or to violate any rule, regulation (including an energy conservation plan) or order issued pursuant to any such provision.

SEC. 120. ENFORCEMENT.

(a) Whoever violates any provision of section 119 shall be subject to a civil penalty of not more than $2,500 for each violation.

(b) Whoever willfully violates any provision of section 119 shall be fined not more than $5,000 for each violation.

(c) It shall be unlawful for any person to offer for sale or distribute in commerce any product or commodity in violation of an applicable order or regulation issued pursuant to this Act. Any person who knowingly and willfully violates this subsection after having been subjected to a civil penalty for a prior violation of the same provision of any order or regulation issued pursuant to this Act shall be fined not more than $50,000 or imprisoned not more than six months, or both.

(d) Whenever it appears to any person authorized by the Administrator to exercise authority under this Act that any individual or organization has engaged, is engaged, or is about to engage in acts or practices constituting a violation of section 119, such person may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any provision, the violation of which is prohibited by section 119.

(e) Any person suffering legal wrong because of any act or practice arising out of any violation of section 119 may bring an action in a district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment or writ of injunction. Nothing in this subsection shall authorize any person to recover damages.

SEC. 121. USE OF FEDERAL FACILITIES.

Whenever practicable, and for the purpose of facilitating the transportation and storage of fuel, agencies or departments of the United States are authorized, during the period beginning on the date of en-

actment of this Act and ending May 15, 1975, to enter into arrangements for the acquisition or use by domestic public entities and private industries of equipment or facilities which are surplus to the needs of such agency or department and appropriate to the transportation and storage of fuel, except that such arrangements may be made (1) only after the Administrator finds that such equipment or facilities are not available from private sources and (2) only on the basis of compensation for the acquisition or use of such equipment or facilities at fair market value prices or rentals.

SEC. 122. DELEGATION OF AUTHORITY AND EFFECT ON STATE LAW.

(a) The Administrator may delegate any of his functions under the Emergency Petroleum Allocation Act of 1973 or this Act to any officer or employee of the Federal Energy Emergency Administration as he deems appropriate. The Administrator may delegate any of his functions relative to implementation and enforcement of the Emergency Petroleum Allocation Act of 1973 or this Act to officers of a State or political subdivision thereof or to State or local boards of balanced composition reflecting the make-up of the community as a whole. Such officers or boards shall be designated and established in accordance with regulations as the Administration shall promulgate under this Act. Section 5(b) of the Emergency Petroleum Allocation Act of 1973 is repealed effective on the effective date of the transfer of functions under such Act to the Administrator pursuant to section 103 of this Act.

(b) No State law or State program in effect on the date of enactment of this Act, or which may become effective thereafter, shall be superseded by any provision of this Act or any regulation, order, or energy conservation plan issued pursuant to this Act except insofar as such State law or State program is inconsistent with the provisions of this Act, or such a regulation, order, or plan.

SEC. 123. GRANTS TO STATES.

Any funds authorized to be appropriated under section 127(b) shall be available for the purpose of making grants to States to which the Administrator has delegated authority under section 122 of this Act, or for the administration of appropriate State or local energy conservation programs which are the basis of an exemption made pursuant to section 105(a)(2) of this Act from a Federal energy conservation plan which has taken effect under section 105 of this Act. The Administrator shall make such grants upon such terms and conditions as he may prescribe by rule.

SEC. 124. REPORTS ON NATIONAL ENERGY RESOURCES.

(a) For the purpose of providing to the Administrator, Congress, the States, and the public, to the maximum extent possible, reliable data on reserves, production, distribution, and use of petroleum products, natural gas, and coal, the Administrator shall promptly publish for public comment a regulation requiring that persons doing business in the United States, who, on the effective date of this Act, are engaged in exploring, developing, processing, refining, or transporting by pipeline, any petroleum product, natural gas, or coal, shall provide detailed reports to the Administrator every sixty calendar

days. Such reports shall show for the preceding sixty calendar days such person's (1) reserves of crude oil, natural gas, and coal; (2) production and destination of any petroleum product, natural gas, and coal; (3) refinery runs byproduct; and (4) other data required by the Administrator for such purpose. Such regulation shall also require that such persons provide to the Administrator such reports for the period from January 1, 1970, to the date of such person's first sixty day report. Such regulation shall be promulgated 30 days after such publication. The Administrator shall publish quarterly in the Federal Register a meaningful summary analysis of the data provided by such reports.

(b) The reporting requirements of this section shall not apply to the retail operations of persons required to file such reports. Where a person shows that all or part of the data required by this section is being reported by such person to another Federal agency, the Administrator may exempt such person from reporting all or part of such data directly to him, and upon such exemption, such agency shall, notwithstanding any other provision of law, provide such data to the Administrator. The district courts of the United States are authorized, upon application of the Administrator, to require enforcement of such reporting requirements.

(c) Upon a showing satisfactory to the Administrator by any person that any report or part thereof obtained under this section from such person or from a Federal agency would, if made public, divulge methods or processes entitled to protection as trade secrets or other proprietary information of such person, such report, or portion thereof, shall be confidential in accordance with the provisions of section 1905 of title 18 of the United States Code, except that such report or part thereof shall not be deemed confidential for purposes of disclosure to (1) any delegate of the Federal Energy Emergency Administration for the purpose of carrying out this Act, (2) the Attorney General, the Secretary of the Interior, the Federal Trade Commission, the Federal Power Commission, or the General Accounting Office when necessary to carry out those agencies' duties and responsibilities under this and other statutes, and (3) the Congress or any Committee of Congress upon request of the Chairman. The provisions of this section shall expire on May 15, 1975.

SEC. 125. INTRASTATE GAS.

Nothing in this Act shall expand the authority of the Federal Power Commission with respect to sales of non-jurisdictional natural gas.

SEC. 126. EXPIRATION.

The authority under this title to prescribe any rule or order or take other action under this title, or to enforce any such rule or order, shall expire at midnight, May 15, 1975, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, May 15, 1975.

SEC. 127. AUTHORIZATION OF APPROPRIATIONS.

(a) There are authorized to be appropriated to the Federal Energy Emergency Agency to carry out its functions under this Act and

under other laws, and to make grants to States under section 123, $75,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 for the fiscal year ending June 30, 1975.

(b) For the purpose of making payments under grants to States under section 123, there are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 for the fiscal year ending June 30, 1975.

(c) For the purpose of making payments under grants to States under section 116, there is authorized to be appropriated $500,000,000 for the fiscal year ending June 30, 1974.

SEC. 128. SEVERABILITY.

If any provision of this Act, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

SEC. 129. PRICE AUTHORITY.

The President shall exercise his authority under the Economic Stabilization Act of 1970, as amended, and the Emergency Petroleum Allocation Act of 1973 to specify prices for sales of crude oil, residual fuel oil, or refined petroleum products in or imported into the United States which avoid windfall profits by sellers. For purposes of this section, windfall profits shall be defined as those profits which are excessive or unreasonable, taking into consideration normal profit levels. This section shall be effective only until December 31, 1974.

SEC. 130. IMPORTATION OF LIQUEFIED NATURAL GAS.

The Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new section:

"SEC. 8. Notwithstanding the provisions of section 3 of the Natural Gas Act (or any other provisions of law) the President may by order, on a finding that such action would be consistent to the public interest, authorize on a shipment-by-shipment basis the importation of liquefied natural gas from a foreign country: Provided, however, That the authority to act under this section shall not permit the importation of liquefied natural gas which had not been authorized prior to the date of expiration of this Act and which is in transit on such date."

TITLE II—COORDINATION WITH ENVIRONMENTAL PROTECTION REQUIREMENTS

SEC. 201. SUSPENSION AUTHORITY.

Title I of the Clean Air Act (42 U.S.C. 1857 et seq.) is amended by adding at the end thereof the following new section:

"ENERGY EMERGENCY AUTHORITY

SEC. 119. (a)(1)(A) The Administrator may, for any period beginning on or after the date of enactment of this section and ending on or before November 1, 1974, temporarily suspend any stationary source fuel or emission limitation as it applies to any person, if the Administrator finds that such person will be unable to comply with such limitation during such period solely because of unavailability of types or amounts of fuels. Any suspension under this paragraph and

any interim requirement on which such suspension is conditioned under paragraph (3) shall be exempted from any procedural requirements set forth in this Act or in any other provision of local, State, or Federal law; except as provided in subparagraph (B).

"(B) The Administrator shall give notice to the public of a suspension and afford the public an opportunity for written and oral presentation of views prior to granting such suspension unless otherwise provided by the Administrator for good cause found and published in the Federal Register. In in any case, before granting such a suspension he shall give actual notice to the Governor of the State, and to the chief executive officer of the local government entity in which the affected source or sources are located. The granting or denial of such suspension and the imposition of an interim requirement shall be subject to judicial review only on the grounds specified in paragraphs (2)(B) and (2)(C) of section 706 of title 5, United States Code, and shall not be subject to any proceeding under section 304(a)(2) or 307(b) and (c) of this Act.

"(2) In issuing any suspension under paragraph (1) the Administrator is authorized to act on his own motion without application by any source or State.

"(3) Any suspension under paragraph (1) shall be conditioned upon compliance with such interim requirements as the Administrator determines are reasonable and practicable. Such interim requirements shall include, but need not be limited to, (A) a requirement that the source receiving the suspension comply with such reporting requirements as the Administrator determines may be necessary, (B) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons, and (C) requirements that the suspension shall be inapplicable during any period during which fuels which would enable compliance with the suspended stationary source fuel or emission limitations are in fact reasonably available to that person (as determined by the Administrator). For purposes of clause (C) of this paragraph, availability of natural gas or petroleum products which enable compliance shall not make a suspension inapplicable to a source described in subsection (b)(1) of this section.

"(4) For purposes of this section:

"(A) The term 'stationary source fuel or emission limitation' means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under this Act (other than section 303, 111(b), or 112) or contained in an applicable implementation plan and which is designed to limit stationary source emissions resulting from combustion of fuels, including a prohibition on, or specification of, the use of any fuel of any type or grade or pollution characteristic thereof.

"(B) The term 'stationary source' has the same meaning as such term has under section 111(a)(3).

"(b)(1) Except as provided in paragraph (2) of this subsection, any fuel-burning stationary source (A) which is prohibited from using petroleum products or natural gas as fuel by reason of an order issued under section 106(a) of the Energy Emergency Act, or which the Administrator determines began conversion to the use of coal as fuel during the 90-day period ending on December 15, 1973, and (B) which converts to the use of coal as fuel, shall not, until January 1, 1979, be

prohibited, by reason of the application of any air pollution requirement, from burning coal which is available to such source.

"(2)(A) Paragraph (1) of this subsection shall apply to a source, only if the Administrator finds that emissions from the source will not materially contribute to a significant risk to public health and if the source has submitted to the Administrator a plan for compliance for such source which the Administrator has approved, after notice to interested persons and opportunity for presentation of views (including oral presentations of views). A plan submitted under the preceding sentence shall be approved only if it provides (i) for compliance by the means; and in accordance with a schedule which meets the requirements of subparagraph (B), and (ii) that such source will comply with requirements which the Administrator shall prescribe to assure that emissions from such source will not materially contribute to a significant risk to public health. The Administrator shall approve or disapprove any such plan within 60 days after such plan is submitted.

"(B) The Administrator shall prescribe regulations requiring that any source to which this subsection applies submit and obtain approval of its means for and schedule of compliance. Such regulations shall include requirements that such schedules shall include dates by which such source must (i) enter into contracts or other enforceable obligations for obtaining a long-term supply of coal or coal by-products (which contracts or obligations must have received prior approval of the Administrator), and (ii) take steps to obtain continuous emission reduction systems necessary to permit such source to burn such coal or coal by-products and to achieve the degree of emission reduction required by the following sentence. (Which steps and systems must have received prior approval of the Administrator). Such regulations shall also require that the source achieve as expeditiously as practicable considering the type of coal to be used (but not later than January 1, 1979) the same degree of emission reduction as it was required to achieve by the applicable implementation plan in effect on the date of enactment of this section. Such regulations shall also include such interim requirements as the Administrator determines are reasonable and practicable including requirements described in clauses (A) and (B) of subsection (a)(3).

"(C) The Administrator (after notice to interested persons and opportunity for presentation of views, including oral presentations of views, to the extent practicable) (i) may, prior to November 1, 1974, and shall thereafter prohibit the use of coal by a source to which paragraph (1) applies if he determines that the use of coal by such source is likely to materially contribute to a significant risk to public health; and (ii) may require such source to use coal of any particular type, grade, or pollution characteristic if such coal is available to such source. Nothing in this subsection (b) shall prohibit a State or local agency from taking action which the Administrator is authorized to take under this paragraph.

"(3) For purposes of this subsection, the term "air pollution requirement" means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under any Federal, State, or local law or regulation, including this Act (except for any requirement prescribed under this subsection or section 303), and which is designed to limit stationary source emissions resulting from

combustion of fuels (including a restriction on the use or content of fuels). A conversion to coal to which this subsection applies shall not be deemed to be a modification for purposes of section 111(a)(2) and (4) of this Act.

"(4) A source to which this subsection applies may, upon the expiration of the exemption under paragraph (1), obtain a one year postponement of the application of any requirement of an applicable implementation plan under the conditions and in the manner provided in section 110(f).

"(c) The Administrator may by rule establish priorities under which manufacturers of continuous emission reduction systems shall provide such systems to users thereof, if he finds that priorities must be imposed in order to assure that such systems are first provided to users in air quality control regions with the most severe air pollution. No rule under this subsection may impair the obligation of any contract entered into before enactment of this section. No State or political subdivision may require any person to use a continuous emission reduction system for which priorities have been established under this subsection except in accordance with such priorities.

"(d) The Administrator shall study, and report to Congress not later than May 31, 1974, with respect to—

"(1) the present and projected impact on the program under this Act of fuel shortages and of allocation and end-use allocation programs;

"(2) availability of continuous emission reduction technology (including projections respecting the time, cost, and number of units available) and the effects that continuous emission reduction systems would have on the total environment and on supplies of fuel and electricity;

"(3) the number of sources and locations which must use such technology based on projected fuel availability data;

"(4) priority schedule for implementation of continuous emission reduction technology, based on public health or air quality;

"(5) evaluation of availability of technology to burn municipal solid waste in these sources; including time schedules, priorities analysis of unregulated pollutants which will be emitted and balancing of health benefits and detriments from burning solid waste and of economic costs;

"(6) projections of air quality impact of fuel shortages and allocations;

"(7) evaluation of alternative control strategies for the attainment and maintenance of national ambient air quality standards for sulfur oxides within the time frames prescribed in the Act, including associated considerations of cost, time frames, feasibility, and effectiveness of such alternative control strategies as compared to stationary source fuel and emission regulations;

"(8) proposed allocations of continuous emission reduction technology for nonsolid waste producing systems to sources which are least able to handle solid waste byproduct, technologically, economically, and without hazard to public health, safety, and welfare; and

"(9) plans for monitoring or requiring sources to which this section applies to monitor the impact of actions under this section on concentration of sulfur dioxide in the ambient air.

"(e) No State or political subdivision may require any person to whom a suspension has been granted under subsection (a) to use any fuel the unavailability of which is the basis of such person's suspension (except that this preemption shall not apply to requirements identical to Federal interim requirements under subsection (a)(1)).

"(f)(1) It shall be unlawful for any person to whom a suspension has been granted under subsection (a)(1) to violate any requirement on which the suspension is conditioned pursuant to subsection (a)(3).

"(2) It shall be unlawful for any person to violate any rule under subsection (c).

"(3) It shall be unlawful for the owner or operator of any source to fail to comply with any requirement under subsection (b) or any regulation, plan, or schedule thereunder.

"(4) It shall be unlawful for any person to fail to comply with an interim requirement under subsection (i)(3).

"(g) Beginning January 1, 1975, the Administrator shall publish at no less than 180-day intervals, in the Federal Register the following:

"(1) A concise summary of progress reports which are required to be filed by any person or source owner or operator to which subsection (b) applies. Such progress reports shall report on the status of compliance with all requirements which have been imposed by the Administrator under such subsections.

"(2) Up-to-date findings on the impact of this section upon—

"(A) applicable implementation plans, and

"(B) ambient air quality.

"(h) Nothing in this section shall affect the power of the Administrator to deal with air pollution presenting an imminent and substantial endangerment to the health of persons under section 303 of this Act.

"(i)(1) In order to reduce the likelihood of early phaseout of existing electric generating facilities during the energy emergency, any electric generating power plant (A) which, because of the age and condition of the plant, is to be taken out of service permanently no later than January 1, 1980, according to the power supply plan (in existence on the date of enactment of the Energy Emergency Act) of the operator of such plant, (B) for which a certification to that effect has been filed by the operator of the plant with the Environmental Protection Agency and the Federal Power Commission, and (C) for which the Commission has determined that the certification has been made in good faith and that the plan to cease operations no later than January 1, 1980, will be carried out as planned in light of existing and prospective power supply requirements, shall be eligible for a single one-year postponement as provided in paragraph (2).

"(2) Prior to the date on which any plant eligible under paragraph (1) is required to comply with any requirement of an applicable implementation plan, such source may apply (with the concurrence of the Governor of the State in which the plant is located) to the Administrator to postpone the applicability of such requirement to such source for not more than one year. If the Administrator determines, after balancing the risk to public health and welfare which may be associated with a postponement, that compliance with any such requirement is not reasonable in light of the projected useful life of the plant, the availability of rate base increases to pay for such costs, and

other appropriate factors, then the Administrator shall grant a postponement of any such requirements.

"(3) The Administrator shall, as a condition of any postponement under paragraph (2), prescribe such interim requirements as are practicable and reasonable in light of the criteria in paragraph (2).

"(j)(1) The Administrator may, after public notice and opportunity for presentation of views in accordance with section 553 of title 5, United States Code, and after consultation with the Federal Energy Emergency Administration, designate persons to whom fuel exchange orders should be issued. The purpose of such designation shall be to avoid or minimize the adverse impact on public health and welfare of any suspension under subsection (a) of this section or conversion to coal to which subsection (b) applies or of any allocation under the Energy Emergency Act or the Emergency Petroleum Allocation Act.

"(2) The Administrator of the Federal Energy Administration shall issue exchange orders to such persons as are designated by the Administrator under paragraph (1) requiring the exchange of any fuel subject to allocation under the preceding Acts effective no later than 45 days after the date of the designation under paragraph (1), unless the Administrator of the Federal Energy Administration determines, after consultation with the Administrator, that the costs or consumption of fuel, resulting from such exchange order, will be excessive.

"(3) Violation of any exchange order issued under paragraph (2) shall be a prohibited act and shall be subject to enforcement action and sanctions in the same manner and to the same extent as a violation of any requirement of the regulation under section 4 of the Emergency Petroleum Allocation Act of 1973."

SEC. 202. IMPLEMENTATION PLAN REVISIONS.

(a) Section 110(a) of the Clean Air Act is amended in paragraph (3) by inserting "(A)" after "(3)" and by adding at the end thereof the following new subparagraph:

"(B)(1) For any air quality control region in which there has been a conversion to coal under section 119(b), the Administrator shall review the applicable implementation plan and no later than one year after the date of such conversion determine whether such plan must be revised in order to achieve the national primary standard which the plan implements. If the Administrator determines that any such plan is inadequate, he shall require that a plan revision be submitted by the State within three months after the date of notice to the State of such determination. Any plan revision which is submitted by the State after notice and public hearing shall be approved or disapproved by the Administrator, after public notice and opportunity for public hearing, but no later than three months after the date required for submission of the revised plan. If a plan provision (or portion thereof) is disapproved (or if a State fails to submit a plan revision), the Administrator shall, after public notice and opportunity for a public hearing, promulgate a revised plan (or portion thereof) not later than three months after the date required for approval or disapproval.

"(2) Any requirement for a plan revision under paragraph (1) and any plan requirement promulgated by the Administrator under such paragraph shall include reasonable and practicable measures to mini-

mize the effect on the public health of any conversion to which section 119(b) applies."

(b) Subsection (c) of section 110 of the Clean Air Act (42 U.S.C. 1857 C–5) is amended by inserting "(1)" after "(c)"; by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and by adding the following new paragraph:

"(2)(A) The Administrator shall conduct a study and shall submit a report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Public Works of the United States Senate not later than May 1, 1974, on the necessity of parking surcharge, management of parking supply, and preferential bus/carpool lane regulations as part of the applicable implementation plans required under this section to achieve and maintain national primary ambient air quality standards. The study shall include an assessment of the economic impact of such regulations, consideration of alternative means of reducing total vehicle miles traveled, and an assessment of the impact of such regulations on other Federal and State programs dealing with energy or transportation. In the course of such study, the Administrator shall consult with other Federal officials including, but not limited to, the Secretary of Transportation, the Administrator of the Federal Energy Administration, and the Chairman of the Council on Environmental Quality.

"(B) No parking surcharge regulation may be required by the Administrator under paragraph (1) of this subsection as a part of an applicable implementation plan. All parking surcharge regulations previously required by the Administrator shall be void upon the date of enactment of this subsection. This subparagraph shall not prevent the Administrator from approving parking surcharges if they are adopted and submitted by a State as part of an applicable implementation plan. The Administrator may not condition approval of any applicable implementation plan submitted by a State on such plan's including a parking surcharge regulation.

"(C) The Administrator is authorized to suspend until January 1, 1975, the effective date or applicability of any regulations for the management of parking supply or any requirement that such regulations be a part of an applicable implementation plan approved or promulgated under this section. The exercise of the authority under this subparagraph shall not prevent the Administrator from approving such regulations if they are adopted and submitted by a State as part of an applicable implementation plan. If the Administrator exercises the authority under this subparagraph, regulations requiring a review or analysis of the impact of proposed parking facilities before construction which take effect on or after January 1, 1975, shall not apply to parking facilities on which construction has been initiated before January 1, 1975.

"(D) For purposes of this paragraph, the term 'parking surcharge regulation' means a regulation imposing or requiring the imposition of any tax, surcharge, fee, or other charge on parking spaces, or any other area used for the temporary storage of motor vehicles. The term 'management of parking supply' shall include any requirement providing that any new facility containing a given number of parking spaces shall receive a permit or other prior approval, issuance of which is to be conditioned on air quality considerations. The term 'preferential

bus/carpool lane' shall include any requirement for the setting aside of one or more lanes of a street or highway on a permanent or temporary basis for the exclusive use of buses and/or carpools."

SEC. 203. MOTOR VEHICLE EMISSIONS.

(a) Section 202(b)(1)(A) of the Clean Air Act is amended by striking out "1975" and inserting in lieu thereof "1977"; and by inserting after "(A)" the following: "The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5)(A) of this subsection for light-duty vehicles and engines manufactured during model year 1975."

(b) Section 202(b)(1)(B) of such Act is amended by striking out "1976" and inserting in lieu thereof "1978"; and by inserting after "(B)" the following: "The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the standards which were prescribed (as of December 1, 1973) under subsection (a) for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model year 1977 shall contain standards which provide that emissions of such vehicles and engines may not exceed 2.0 grams per vehicle mile."

(c) Section 202(b)(5)(A) of such Act is amended to read as follows:

"(5)(A) At any time after January 1, 1975, any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of any emission standard required by paragraph (1)(A) with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1977. The Administrator shall make his determination with respect to any such application within 60 days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed by paragraph (1)(A) of this subsection) to emissions of carbon monoxide or hydrocarbons (or both) from such vehicles and engines manufactured during model year 1977."

(d) Section 202(b)(5)(B) of the Clean Air Act is repealed and the following subparagraphs redesignated accordingly.

SEC. 204. CONFORMING AMENDMENTS.

(a)(1) Section 113(a)(3) of the Clean Air Act is amended by striking out "or" before "112(c)", by inserting a comma in lieu thereof, and by inserting after "hazardous emissions)" the following: ", or 119(f) (relating to priorities and certain other requirements)".

(2) Section 113(b)(3) of such Act is amended by striking out "or 112(c)" and inserting in lieu thereof ", 112(c), or 119(f)".

(3) Section 113(c)(1)(C) of such Act is amended by striking out

"or section 112(c)" and inserting in lieu thereof ", section 112(c), or section 119(f)".

(4) Section 114(a) of such Act is amended by inserting "119 or" before "303".

(b) Section 116 of the Clean Air Act is amended by inserting "119(b), (c) and (e)," before "209".

SEC. 205. PROTECTION OF PUBLIC HEALTH AND ENVIRONMENT.

(a) Any allocation program provided for in title I of this Act or in the Emergency Petroleum Allocation Act of 1973, shall, to the maximum extent practicable, include measures to assure that available low sulfur fuel will be distributed on a priority basis to those areas of the country designated by the Administrator of the Environmental Protection Agency as requiring low sulfur fuel to avoid or minimize adverse impact on public health.

(b) In order to determine the health effects of emissions of sulfur oxides to the air resulting from any conversions to burning coal pursuant to section 106, the Department of Health, Education, and Welfare shall, through the National Institute of Environmental Health Sciences and in cooperation with the Environmental Protection Agency, conduct a study of chronic effects among exposed populations. The sum of $3,500,000 is authorized to be appropriated for such a study. In order to assure that long-term studies can be conducted without interruption, such sums as are appropriated shall be available until expended.

(c) No action taken under this Act shall, for a period of 1 year after initiation of such action, be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 856). However, before any action under this Act that has a significant impact on the environment is taken, if practicable, or in any event within 60 days after such action is taken, an environmental evaluation with analysis equivalent to that required under section 102 (2) (C) of the National Environmental Policy Act, to the greatest extent practicable within this time constraint, shall be prepared and circulated to appropriate Federal, State, and local government agencies and to the public for a 30-day comment period after which a public hearing shall be held upon request to review outstanding environmental issues. Such an evaluation shall not be required where the action in question has been preceded by compliance with the National Environmental Policy Act by the appropriate Federal agency. Any action taken under this Act which will be in effect for more than a one year period (other than action taken pursuant to subsection (d) of this section) or any action to extend an action taken under this Act to a total period of more than 1 year shall be subject to the full provisions of the National Environmental Policy Act notwithstanding any other provision of this Act.

(d) Notwithstanding subsection (c) of this section, in order to expedite the prompt construction of facilities for the importation of hydroelectric energy thereby helping to reduce the shortage of petroleum products in the United States, the Federal Power Commission

is hereby authorized and directed to issue a Presidential permit pursuant to Executive Order 10485 of September 3, 1953, for the construction, operation, maintenance, and connection of facilities for the transmission of electric energy at the borders of the United States without preparing an environmental impact statement pursuant to section 102 of the National Environmental Policy Act of 1969 (83 Stat. 856) for facilities for the transmission of electric energy between Canada and the United States in the vicinity of Fort Covington, New York.

SEC. 206. ENERGY CONSERVATION STUDY.

(a) The Administrator of the Federal Energy Administration shall conduct a study on potential methods of energy conservation and, not later than 6 months after the date of enactment of this Act, shall submit to Congress a report on the results of such study. The study shall include, but not be limited to, the following:

(1) the energy conservation potential of restricting exports of fuels or energy-intensive products or goods, including an analysis of balance of payments and foreign relations implications of any such restrictions;

(2) federally sponsored incentives for the use of public transit, including the need for authority to require additional production of buses or other means of public transit and Federal subsidies for the duration of the energy emergency for reduced fares and additional expenses incurred because of increased service;

(3) alternative requirements, incentives, or disincentives for increasing industrial recycling and resource recovery in order to reduce energy demand, including the economic costs and fuel consumption trade-off which may be associated with such recycling and resource recovery in lieu of transportation and use of virgin materials;

(4) the costs and benefits of electrifying rail lines in the United States with a high density of traffic; including (A) the capital costs of such electrification, the oil fuel economies derived from such electrification, the ability of existing power facilities to supply the additional power load, and the amount of coal or other fossil fuels required to generate the power required for railroad electrification, and (B) the advantages to the environment of electrification of railroads in terms of reduced fuel consumption and air pollution and disadvantages to the environment from increased use of fossil fuel such as coal; and

(5) means for incentives or disincentives to increase efficiency of industrial use of energy.

(b) Within 90 days of the date of enactment of this Act, the Secretary of Transportation, after consultation with the Federal Energy Administrator, shall submit to the Congress for appropriate action an "Emergency Mass Transportation Assistance Plan" for the purpose of conserving energy by expanding and improving public mass transportation systems and encouraging increased ridership as alternatives to automobile travel.

(c) Such plan shall include, but shall not be limited to—

(1) recommendations for emergency temporary grants to assist States and local public bodies and agencies thereof in the payment of operating expenses incurred in connection with the pro-

vision of expanded mass transportation service in urban areas;

(2) recommendations for additional emergency assistance for the purchase of buses and rolling stock for fixed rail, including the feasibility of accelerating the timetable for such assistance under section 142(a) (2) of title 23, United States Code (the "Federal Aid Highway Act of 1973"), for the purpose of providing additional capacity for and encouraging increased use of public mass transportation systems;

(3) recommendations for a program of demonstration projects to determine the feasibility of fare-free and low-fare urban mass transportation systems, including reduced rates for elaerly and handicapped persons during nonpeak hours of transportation;

(4) recommendations for additional emergency assistance for the construction of fringe and transportation corridor parking facilities to serve bus and other mass transportation passengers;

(5) recommendations on the feasibility of providing tax incentives for persons who use public mass transportation systems.

(d) In consultation with the Federal Energy Administrator, the Secretary of Transportation shall make an investigation and study for the purpose of conserving energy and assuring that the essential fuel needs of the United States will be met by developing a high-speed ground transportation system between the cities of Tijuana in the State of Baja California, Mexico, and Vancouver in the Province of British Columbia, Canada, by way of the cities of Seattle in the State of Washington, Portland in the State of Oregon, and Sacramento, San Francisco, Fresno, Los Angeles and San Diego in the State of California. In carrying out such investigation and study the Secretary shall consider, but shall not be limited to—

(1) the efficiency of energy utilization and impact on energy resources of such a system, including the future impact of existing transportation systems on energy resources if such a system is not established;

(2) coordination with other studies undertaken on the State and local level; and

(3) such other matters as he deems appropriate.

The Secretary of Transportation shall report the results of the study and investigation pursuant to this Act, together with his recommendations, to the Congress and the President no later than December 31, 1974.

SEC. 207. REPORTS.

The Administrator of the Environmental Protection Agency shall report to Congress not later than January 31, 1975, on the implementation of sections 201 through 205 of this title.

SEC. 208. FUEL ECONOMY STUDY.

Title II of the Clean Air Act is amended by redesignating section 213 as section 214 and by adding the following new section:

"FUEL ECONOMY IMPROVEMENT FROM NEW MOTOR VEHICLES

SEC. 213. (a) (1) The Administrator and the Secretary of Transportation shall conduct a joint study, and shall report to the Committee on Interstate and Foreign Commerce of the United States House of Rep-

resentatives and the Committees on Public Works and Commerce of the United States Senate within 120 days following the date of enactment of this section, concerning the practicability of establishing a fuel economy improvement standard of 20 percent for new motor vehicles manufactured during and after model year 1980. Such study and report shall include, but not be limited to, the technological problems of meeting any such standard, including the leadtime involved; the test procedures required to determine compliance; the economic costs associated with such standard, including any beneficial economic impact; the various means of enforcing such standard; the effect on consumption of natural resources, including energy consumed; and the impact of applicable safety and emission standards. In the course of performing such study, the Administrator and the Secretary of Transportation shall utilize the research previously performed in the Department of Transportation, and the Administrator and the Secretary shall consult with the Administrator of the Federal Energy Administration, the Chairman of the Council on Environmental Quality, and the Secretary of the Treasury. The Office of Management and Budget may review such report before its submission to Congress but the Office may not revise the report or delay its submission beyond the date prescribed for its submission, and may submit to Congress its comments respecting such report. In connection with such study, the Administrator may utilize the authority provided in section 307 (a) of this Act to obtain necessary information.

"(2) For the purpose of this section, the term 'fuel economy improvement standard' means a requirement of a percentage increase in the number of miles of transportation provided by a manufacturer's entire annual production of new motor vehicles per unit of fuel consumed, as determined for each manufacturer in accordance with test procedures established by the Administrator pursuant to this Act. Such term shall not include any requirement for any design standard or any other requirement specifying or otherwise limiting the manufacturer's discretion in deciding how to comply with the fuel economy improvement standard by any lawful means."

TITLE III—STUDIES AND REPORTS

SEC. 301. AGENCY STUDIES.

The following studies shall be conducted, with reports on their results submitted to the Congress:

(1) Within 30 days after the date of enactment of this Act:

(A) The Administrator of the Federal Energy Emergency Administration shall conduct a review of all rulings and regulations issued pursuant to the Economic Stabilization Act to determine if such rulings and regulations are contributing to the shortage of fuels and of materials associated with the production of energy supplies.

(B) All Federal departments and agencies, including the Federal regulatory agencies, are directed to undertake a survey of all activities over which they have special expertise or jurisdiction and identify and recommend to the Congress and to the President specific proposals to significantly increase energy supply or to reduce energy demand through conservation programs.

(C) The Secretary of the Treasury and the Director of the Cost of Living Council shall recommend to the Congress specific incentives to increase energy supply, reduce demand, to encourage private industry and individual persons to subscribe to the goals of this Act. This study shall also include an analysis of the price-elasticity of demand for gasoline.

(D) The Administrator shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers, together with legislative recommendations appropriate to meet such needs, including revisions in the unemployment insurance laws.

(E) The Secretary of the Interior and the Secretary of Commerce are directed to prepare a comprehensive report of (1) United States exports of petroleum products and other energy sources, and (2) foreign investment in production of petroleum products and other energy sources to determine the consistency or lack thereof of the Nation's trade policy and foreign investment policy with domestic energy conservation efforts. Such report shall include recommendations for legislation.

(2) Within 6 months after the date of enactment of this Act:

(A) The Administrator shall develop and submit to the Congress no later than May 15, 1974, a plan for providing incentives for the increased use of public transportation and Federal subsidies for maintained or reduced fares and additional expenses incurred because of increased service for the duration of the Act. For the purposes of Section ——, the plan provided for in this section shall be considered an energy conservation plan.

(B) The Administrator of the FEEA shall recommend to the Congress actions to be taken regarding the problem of the siting of energy producing facilities.

(C) The Administrator of the FEEA shall conduct a study of the further development of the hydroelectric power resources of the Nation, including an assessment of present and proposed projects already authorized by Congress and the potential of other hydroelectric power resources, including tidal power and geothermal steam.

(D) The Administrator shall prepare and submit to Congress a plan for encouraging the conversion of coal to crude oil and other liquid and gaseous hydrocarbons.

(E) The Secretary of the Interior shall study methods for accelerating leases of energy resources on public lands including oil and gas leasing onshore and offshore, and geothermal energy leasing.

SEC. 302. REPORTS OF THE PRESIDENT TO CONGRESS.

The President shall report to the Congress every sixty days, beginning February 1, 1974, on the implementation and administration of this Act and the Emergency Petroleum Allocation Act of 1973, together with an assessment of the results attained thereby. Each report shall include specific information, nationally and by region and State, concerning staffing and other administrative arrangements taken to carry out programs under these Acts and may include such recom-

mendations as he deems necessary for amending or extending the authorities granted in this Act or in the Emergency Petroleum Allocation Act of 1973.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the Senate bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the House to the title of the Senate bill, insert the following: "An Act to assure, through energy conservation, end-use rationing of fuels, and other means, that the essential energy needs of the United States are met, and for other purposes."

And the House agree to the same.

HARLEY O. STAGGERS,
TORBERT H. MACDONALD,
JOHN E. MOSS,
PAUL G. ROGERS,
JAMES T. BROYHILL,
J. F. HASTINGS,
Managers on the Part of the House.

HENRY M. JACKSON,
ALAN BIBLE,
LEE METCALF,
JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
HOWARD BAKER,
ADLAI STEVENSON,
TED STEVENS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and International contingency plans; to assure the continuation of vital public services; and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendments struck out all of the Senate bill after the enacting clause and inserted a substitute text and provided a new title for the Senate bill.

The committee of conference has agreed to a substitute for both the Senate bill and the House amendment to the text of the bill. Except for clarifying, clerical, and conforming changes, the differences are noted below:

Several general comments should be made concerning the overall pattern of the legislation agreed to by the Conference Committee. The Substitute text agreed to does not contain a number of provisions which were contained in either the House or Senate bill. The Committee wishes to emphasize that it has eliminated these provisions without prejudice. In a number of cases these matters were not agreed to in deference to the jurisdictional prerogatives of other committees of the Congress who were not represented at the Conference. In other cases the Conferees eliminated provisions which in their Judgment addressed problems which did not relate to the short term emergency situation. Because of the exigencies of the situation, the Conferees have attempted to confine the scope of this legislation to those matters which were essential and leave to a time which affords more studied consideration those proposals which attempt to deal with the more long term and basic energy supply and demand problems which confront this nation.

Emergency Conservation Regulations

Faced with the emergency situation, on November 8, 1973, the President addressed the nation on the dimensions of the energy crisis. In that address, the President announced that he would request the Congress to vest in him emergency authority to impose restrictions on both the public and private consumption of energy. The legislation which the Conferees have agreed to proposes to give to the Executive a full spectrum of extraordinary powers to cope with the situation. The Conferees fully expect that the Administration, having been granted

these authorities under the Act, will use them forthwith, and take strong action to reduce demand for energy during this period of national energy shortages and to expand supply of petroleum products through the conversion of stationary electric power plants now burning oil or natural gas.

The Conferees have not, however, agreed to vest without limitation the all pervasive and ill defined authority to restrict public and private consumption of energy which had been requested by the President. Instead, the Conferees have devised a mechanism for allowing further legislative consideration and control over the exercise of these powers.

Under its terms, the Administrator of the Federal Emergency Energy Administration created by this legislation would be permitted to issue regulations restricting energy use subject to a reservation of Congressional veto power. This control is to be exercised in a manner which closely parallels statutory mechanisms which have been used in various reorganization acts of the Congress over the past thirty years. The Conferees have carefully tailored this mechanism to take into consideration the emergency circumstances which confront the nation. Thus, the Administrator would be permitted to immediately implement conservation regulations prior to March 1, 1974, in order to reduce demand in the harsh winter months of January and February without delay. Such regulations must be submitted to the Congress simultaneously with their promulgation. Thereafter, the Congress would have an opportunity to veto the regulation by simple resolution in either house. If vetoed, the regulation would not continue in effect. The Committee wishes to emphasize that any such regulation would, until vetoed, be given full force and effect. Compliance may be obtained through court injunctive process or through the imposition of civil and criminal penalties for any violation.

Conservation regulations proposed to take effect after March 1, 1974, would be delayed in their implementation until Congress is afforded an opportunity of 15 consecutive days in continuous legislative session to consider disapproval resolutions. If the Congress does not act within that 15-day period, the regulation may be implemented. Lastly, the Conferees have determined that any conservation measure which is proposed to take effect after June 30, 1974, must be submitted to the Congress in the nature of a legislative proposal for appropriate Congressional consideration. Actions of this nature are sufficiently long term in their objective so as to permit the normal legislative process to be observed.

The law passed since the first declared national emergency in 1933 commonly transferred almost unlimited power to the Executive to permit government to act effectively in times of great crisis. A recently issued report of the Special Committee on the Termination of the National Emergency, United States Senate, catalogued over 470 significant statutes which the Congress has passed since 1933 delegating to the President powers that has been "the prerogatives and responsibility of the Congress since the beginning of the Republic".

Over the course of that 40-year period, the Congress has repeatedly been presented with the problem of finding a means by which a legislative body in a democratic republic may extend extraordinary powers for use by the Executive during times of emergency without imperiling

our Constitutional balance of liberty and authority. The Conferees believe that the disapproval mechanism contained in this legislation provides the best opportunity for resolution of this problem.

The veto authority coupled with a termination date which limits the duration of the period within which these powers may be exercised provides assurance that normal legislative processes will be resumed at a time certain and that the Constitutional checks and balance system will be preserved. It is firmy believed that this form of legislative consideration and control gives full effect to the separation of powers principle so fundamental to our system of government while at the same time allowing a vesting of power in the Executive branch to permit actions to be taken expeditiously in order to respond to immediate and changing circumstances during a crisis situation.

FEDERAL ENERGY EMERGENCY ADMINISTRATION

To exercise the authority granted under this legislation, the Committee has created a temporary Federal Emergency Energy Administration to be directed by an administrator appointed by the President with the advice and consent of the Senate. In addition to its duties under this Act, the Administration is to exercise the authority provided for in the Emergency Petroleum Allocation Act of 1973 previously reported by this Committee and already enacted into law. In so doing the Committee proposes to parallel and give statutory force to the Federal Energy Office created by executive order of the President on Tuesday, December 4, 1973. It is the understanding of the conferees that the office of Administrator came into existence on the effective date of this Act and that vacancies exist in such offices from the time of their creation until they are filled. Accordingly, Article 2, Section 2, Clause 3 of the Constitution is applicable.

The creation of this new administration to deal with the emergency fuels shortages is proposed on the premise that we must focus authority in a single agency head with decisionmaking responsibility for these programs. This agency is to operate within the Executive Department subject to the supervision of the President. Several trappings of independence, however, are given to the Administrator to assure that he may act consonant with the preeminence of his mission free from certain administrative controls which have been ingrafted on agency actions in the name of administrative efficiency. Thus, the Federal Emergency Energy Administration is relieved of the necessity of obtaining prior OMB clearance for information gathering activities. Also to assure that the administration will have high visibility in government, budget requests and legislative recommendations are to be transmitted to the Congress simultaneously with their submission to the Office of Management and Budget. In so doing the Committee seeks to assure that the Congres will know without question or qualification what the Administrator determines to be his fiscal needs in carrying out his legislative assignment and what additional authority may be required to get the job done effectively and expeditiously.

In addition to the powers under the Emergency Petroleum Allocation Act of 1973 and as may be authorized under this Act, the Presi-

dent has proposed to transfer other functions of the Executive Department to a Federal Energy Administration so as to consolidate energy related activities. The Committee has not attempted and does not propose to transfer these functions in this Act. It is understood that some of these proposed transfers, such as the transfer from the Department of Interior of its Office of Oil and Gas and the Outer Continental Shelf authority, require legislative approval. An appropriate bill has been submitted to the Congress and has considered by the Government Operations Committees of the House and Senate. On December 19 the Senate passed the Administration's proposed bill to establish an FEA.

The conferees wish to emphasize that the creation of a temporary Federal Emergency Energy Administration under this Act does not remove the necessity of the Congress acting upon the legislation reported by the House and Senate Government Operations Committees. The need for statutory creation of an administrative office within the Executive Branch which consolidates energy policy related functions of government remains real and immediate. This Act provides the basic authority to initiate the establishment of such an administrative office.

Safeguards Against Unreasonable Discriminations and Unequitable Treatment

The authorities contained in this legislation and in the Emergency Petroleum Allocation Act of 1973, which it amends, call for a major intrusion into the competitive marketplace by the federal government. In allocating fuels so as to maintain essential services during times of shortage and to assure equitable distribution of supplies throughout the nation, decisions will be made which will impact on all regions of the country and all sectors of the economy. Already significant actions have been taken in some cases on questionable legal authority, which have produced dislocations and distortions in the competitive market which have impacted disproportionately on individual groups of competitors offering similar services. In part, this has been the unavoidable result of attempting to cope with a crisis situation without having first developed a decision-making structure which affords government an opportunity to appreciate the full ramifications of its direct and indirect actions. For example, there must be a realization by those in authority that the public good is not served by denying allocations of fuel for certain uses which have the appearance of being nonessential (such as recreational activities or various aspects of general aviation) if to do so would result in significant unemployment and economic recession for some regions of the country. There are, of course, many areas in this nation where recreation and tourism provide the base of the local economy. Careful attention must be given to the needs of these as well as other areas. Moreover, government must equip itself so as to be able to look beyond the immediately affected industry to discover the unforeseen ripple effects of its action on other supportive and relative industry groupings.

Access to adequate supplies of fuels is basic to the survival of virtually every commercial enterprise and, accordingly, government must act with great care to assure that its actions are equitable and do not unreasonably discriminate among users. The Committee has added a

separate section to this legislation creating a statutory standard of reasonableness to be observed in the allocation of refined petroleum products and electrical energy among users or in taking actions which result in restrictions on use of such products and electrical energy. The Committee intends the term equitable to be applied in its broadest and most general sense. As such, the term denotes the spirit of fairness, justness, and right dealing. No user or class of users should be called upon during this shortage period to carry an unreasonably disproportionate share of the burden. This is fundamental to the traditional notion of fairness and equal protection. The Committee expects the President and the Administrator of the Federal Emergency Energy Administration created under this Act to assiduously observe these requirements in the conduct of their functions.

The Committee also adopted a section which requires the preparation of an economic impact analysis of any actions it proposes to take to bring supply and demand into balance. Wherever practicable, this analysis is to be completed prior to implementation of the proposed action. If conditions do not permit full advance preparation of the economic impact analysis in acting to deal with emergency conditions, the analysis is to be prepared contemporaneously with implementations of any proposed action between date of enactment and March 1, 1974.

The committee is concerned about the very real threat of the cutoff of Canadian fuel to the United States, particularly fuel essential for business and heating purposes. A specific example of such an action is the possibility that the Canadian government may stop supplying fuel to the great Northern Paper and Georgia-Pacific plants in the State of Maine. The following amendment was offered in the conference but was subsequently withdrawn in recognition of the desirability of allowing diplomatic endeavors to be pursued:

"Whenever, as a result of action by the Canadian Resources Board, fuel exports to any manufacturing plant in the United States are interrupted, the Administrator shall make an allocation of fuel to such manufacturing plant in accordance with the provisions of the Emergency Petroleum Allocation Act. Where possible, such allocation shall be from fuel which would otherwise be exported from the United States to Canada."

The committee understands that diplomatic efforts are underway to reverse the actions contemplated by the Canadian government and expresses a strong interest in having all diplomatic avenues pursued vigorously to successfully resolve this and other similar situations.

End Use Rationing Authority

The conferees have agreed on provisions which authorize the President to develop and implement an end use rationing plan for crude oil, residual fuel oil and refined petroleum products. This authority is to be exercised under the Emergency Petroleum Allocation Act of 1973 and must be consistent with the attainment of the congressionally stated objectives of that Act. Procedural protections are provided to permit users an opportunity to present views respecting the development of the plan. It is the firm intention of the conferees that end use

rationing be implemented as a last resort measure. Accordingly it has been provided in the conference substitute that end use rationing may be implemented only upon a finding that all other practicable and authorized actions are insufficient to assure the preservation of public health, safety, and the public welfare and those other defined objectives set forth in section 4(b) of the Emergency Petroleum Allocation Act. Should the President be able to make such a finding, he is authorized to implement end use rationing without further action of the Congress.

The conferees wish to state their intent that in the development of an end use rationing plan, the President shall give special consideration to the transportation needs of our handicapped Americans. Clearly, if the employment, medical, and therapeutic services of our physically handicapped citizens are interrupted as a result of lack of transportation, a hardship for such individuals will be incalculable in its effects. Moreover, the conferees believe that actions taken under the Emergency Petroleum Allocation Act of 1973 shall, where consistent with the objectives of section 4(b) of that Act, give consideration to providing allocations of petroleum products for the timely completion of Federal construction projects and give consideration to the public welfare needs of meeting the educational or housing requirements of our citizens.

The Conferees also recognize that end-use rationing plans should give consideration to the personal transportation needs of American military personnel re-assigned to other duty stations and of those persons who are required to relocate for employment purposes.

SHORT TITLE

TABLE OF CONTENTS

Senate bill

The Senate bill provided that it could be cited as the "National Energy Emergency Act of 1973". It had no table of contents.

House amendment

The House amendment provided that it could be cited as the "Energy Emergency Act".

The House amendment also included a table of contents of the legislation.

Conference substitute

The conference substitute has the same short title as the House amendment and includes a table of contents.

TABLE I—ENERGY EMERGENCY AUTHORITIES

FINDINGS AND PURPOSES—ENERGY EMERGENCY

FINDINGS

Senate bill

Under section 101 of the Senate bill the Congress would make a determination that a shortage of crude oil, residual fuel oil, and refined petroleum products does now exist. In addition, it would make determinations with respect to the effect of those shortages; what steps should be taken with respect thereto; that primary responsibility for developing and enforcing fuel shortage contingency plans lies with the States and certain local governments, and that, during the energy emergency, the protection and fostering of competition and the prevention of anticompetitive practices and effects are vital.

House amendment

No provision.

Conference substitute

Section 101(a)(1) of the conference substitute is in most respects the same as the Senate bill.

DECLARATION OF EMERGENCY

Senate bill

Under Section 201 the Congress would declare that current and imminent fuel shortages have created a nationwide energy emergency.

House amendment

No provision.

Conference substitute

Section 101(a)(2) of the conference substitute states that on the basis of the determinations specified in paragraph (1) thereof the Congress hereby finds that current and imminent fuel shortages have created a nationwide energy emergency.

PURPOSES

Senate bill

Section 102 of the Senate bill lists the purposes of the legislation. Among the purposes listed are (1) to declare an energy emergency, (2) to direct the President to take action with regard thereto, (3) to provide a national program to conserve scarce energy resources, (4) to minimize the adverse effects of energy shortages on the economy and industrial capacity of the Nation, and (5) to direct the President and State and local governments to develop contingency plans for making specified reductions in energy consumption.

House amendment

Section 101 of the House amendment sets forth the purpose of the legislation which is to (1) call for proposals for measures which could be taken in order to conserve energy, and (2) authorize specific temporary emergency measures to be taken to assure that the Nation's essential needs for fuel will be met in a manner which to the maximum practicable extent meets certain specified objectives.

Conference substitute

Section 101(b) of the conference substitute provides that the purposes of the legislation are to call for proposals for energy emergency rationing and conservation measures and to authorize specific temporary emergency actions to be exercised, subject to congressional review and right of approval or disapproval, to assure that the essential needs of the United States for fuels will be met in a manner which to the fullest extent practicable meets specified objectives.

DEFINITIONS

Senate bill

No provision.

House amendment

Section 102 defined the terms "State", "petroleum product", United States" and "Administration" for purposes of the legislation.

"Administrator" is defined to mean the Administrator of the Federal Energy Administration which is established by section 104 of the House amendment. The term is used with that meaning throughout the House amendment segments of this joint statement unless another intent is specifically indicated.

Conference substitute

Section 102 of the conference substitute is the same as the House amendment, except that "Administrator" is defined to mean the Administrator of the Federal Energy Emergency Administration which is established by section 103 of the conference substitute. That term

will be used with that meaning throughout the conference substitute portions of this joint statement unless another intent is specifically indicated.

FEDERAL ENERGY EMERGENCY ADMINISTRATION

Senate bill

No provision.

House amendment

Section 104 would establish a Federal Energy Administration. The Administration would be headed by a Federal Energy Administrator appointed by and with the consent of the Senate who would serve until May 15, 1975. The Administrator would be responsible for the development and implementation of Mandatory Allocation Programs provided for in the Emergency Petroleum Allocation Act of 1973.

Copies of budget estimates and requests, legislative recommendations, testimony, or comments on legislation which are submitted to the President or to the Office of Management and Budget would be concurrently transmitted to the Congress. The Administration would be considered an independent regulatory agency for purposes of the collection of information and as such is exempt from Office of Management and Budget veto of its actions for the collection of necessary information.

Conference substitute

Section 103 of the conference substitute establishes until May 15, 1975, unless superseded prior to that date by law a Federal Emergency Energy Administration (FEEA) which shall be temporary and headed by an Administrator who shall be appointed by the President by and with the advice and consent of the Senate.

It is the understanding of the conferees that the office of Administrator comes into existence on the date of enactment of the legislation and that a vacancy exists in such office from the time of its creation until it is filled. Accordingly, Article II, Section 2, Clause 3 of the Constitution is applicable.

Effective on the date on which the Administrator first takes office (or, if later, on January 1, 1974) certain functions, powers, and duties under specified sections of the Emergency Petroleum Allocation Act of 1973 (other than functions vested by section 6 of such Act in the Federal Trade Commission, the Attorney General, or the Antitrust Division of the Department of Justice) are transferred to the Administrator. Personnel, property, records, obligations, and commitments used primarily with respect to functions transferred to the Administrator are also transferred to him.

Whenever the FEEA submits any (1) budget estimate or request, or (2) legislative recommendations or testimony or comments on legislation, to the President or the Office of Management and Budget it must concurrently transmit a copy thereof to the Congress. No officer or agency of the United States may require the FEEA to submit its legislative recommendations or testimony or comments to any officer or agency of the United States for approval, comments, or review prior to the submission thereof to the Congress.

The FEEA shall be an independent regulatory agency for purposes of Chapter 35 of Title 44, United States Code, but not for any other purpose.

ENERGY CONSERVATION, DISTRIBUTION, AND ALLOCATION PROVISIONS—RATIONING AUTHORITY

Senate bill

Energy Rationing and Conservation Program

Under subsections (a) and (b) of section 203, the President would be required to promulgate a nationwide emergency energy rationing and conservation program within 15 days after enactment of the legislation. Such program would include (1) a priority system and plan, including a program to be implemented without delay for rationing scarce fuels among distributors and consumers, and (2) measures capable of reducing energy consumption in the affected area by no less than 10% within 10 days, and by no less than 25% within 4 weeks after implementation.

Fuel Distribution Plan

Section 203(c) would require the President within 15 days after enactment of the legislation to determine the fuel needs of the major geographic regions of the United States and to promulgate a plan assuring equitable distribution of available fuel supplies among such regions based on their respective relative needs, including such needs of the States within such regions.

The plan would include allocation of available transport facilities necessary to assure equitable distribution of fuel supplies under the plan.

The fuel distribution plan or plans would be implemented within 30 days after promulgation.

House amendment

Energy Conservation Plans

Section 105 would require the Administrator, within 30 days after enactment of the legislation and from time to time thereafter, to propose one or more energy conservation plans, as defined, to reduce energy consumption to a level which could be supplied from available energy resources. The plans would be submitted to Congress for appropriate action.

Section 105(b) would require such plans to provide for the maintenance of vital services. Section 105(c) would require that proposed restrictions on the use of energy in such plans to be submitted by the Administrator would be designed, to the maximum extent practicable, to be carried out in a manner which is fair and reasonably distributes the burden on all sectors of the economy. Such restriction should also give due consideration to the needs of commercial, retail, and service establishments with unconventional working hours. Section 105(e) would state that no provision of the Act or the EPAA should be construed as authorizing the imposition of any tax.

Amendment to Emergency Petroleum Allocation Act of 1973 (EPAA)

Section 103(a) would amend section 4 of the EPAA, relating to mandatory allocation of crude oil, residual fuel oil, and refined petroleum products.

Proposed subsection 4(h) would authorize the President to establish rules for the ordering of priorities among users of petroleum products and to assign to such users rights to obtain petroleum products in preference to those assigned a lower priority. Prior to this ordering of priorities and assignment of rights, the President must find that such action is necessary in order to carry out the objectives of subsection 4(b) of the EPAA. (Subsection 4(b) is the section which defines the provisions which must be fulfilled by the regulation providing for the mandatory allocation of petroleum products.)

In the ordering of priorities among users, the maintenance of vital services would be emphasized.

Allocations of products made pursuant to the proposed subsection would be adjusted by the President as necessary to assure that those entitled to receive allotments would actually obtain such allocated products.

The President would be required to establish procedures whereby users may petition for review, reclassification, and modification of priorities and entitlements assigned in accordance with the subsection. These procedures may include procedures with respect to local boards which could be established under section 109(c) of the legislation.

The President would be authorized to require refineries in the United States to adjust their operations with regard to the proportions of products produced in the refining process. These adjustments would be required as necessary to assure that the proportions produced are consistent with the objectives set forth in section 4(b) of the EPAA.

The definition of "allocation" as used in this subsection would be clarified by stating that it "shall not be construed to exclude the end-use allocation of gasoline to individual consumers". Thus, the President would be authorized to ration gasoline.

Section 103(e) would amend section 4 of the EPAA by adding subsections (l) through (n) thereto providing a procedure for Congressional review and disapproval of any rule issued under section 4(h) (which is discussed above) with respect to end-use allocation which is referred to as an "energy action".

Under the procedure, the President would be required to transmit any energy action to both Houses of the Congress on the same day.

An energy action would take effect at the end of the first period of 15 calendar days of continuous session of the Congress after the date on which the energy action is transmitted, unless either House passed a resolution stating that it did not favor the energy action. A detailed disapproval procedure is set out which would be enacted as an exercise of the rulemaking power of each House of Congress. Any energy action which became effective would be printed in the Federal Register.

Proposed section 4(j) of the EPAA would provide that, notwithstanding any other provision of the EPAA, or of any State or local law regarding fuel allocation, provision will be made for adequate supplies of fuels for:

(a) moves of armed services personnel on orders;

(b) household moves related to employment;

(c) household moves rising from displacement due to unemployment; and

(d) moves due to health, educational opportunities, or other good and sufficient reasons.

Conference substitute

End-Use Allocation

Section 104 of the conference substitute amends section 4 of the Emergency Petroleum Allocation Act of 1973 (EPAA) by adding a new subsection (h).

Under the new subsection the President may promulgate a rule which shall provide, consistent with the objectives of section 4(b) of that Act, an ordering of priorities among users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to such users of rights entitling them to obtain any such oil or product in precedence to other users not similarly entitled.

Such rule shall take effect only if the President finds that, without such rule, all other practicable and authorized methods to limit energy demand will not achieve the objectives of Emergency Petroleum Allocation Act of 1973, and of this Act.

The President shall, by order, in furtherance of such rule cause such adjustments in the allocations made pursuant to the regulation under section 4(b) of the EPAA as may be necessary to provide for the allocation of crude oil, residual fuel oil, or any refined petroleum product as necessary to attain the objectives established for the Allocation Program in the Emergency Petroleum Allocation Act.

The President must provide for procedures by which any user of such oil or product for which priorities and entitlements are established under this new subsection may petition for review and reclassification or modification of any determination made thereunder with respect to his priority or entitlement. Provision is made for the establishment of local boards to administer allocation or rationing programs. In providing for the implementation of rationing the conferees specifically state that no taxing authority, of any type, is granted.

Energy Conservation Regulations

Under section 105 of the conference substitute, the Administrator may propose one or more energy conservation regulations which shall be designed (together with certain other actions) to result in a reduction of energy consumption to a level which can be supplied by available energy resources. The term "energy conservation regulations" is defined to mean limits) or such other restrictions on the public or private use of energy (including limitations on operating hours of businesses) which are necessary to reduce energy consumption.

An energy conservation regulation—

(1) may not impose any tax or user fee, or provide for a credit or deduction in computing any tax,

(2) may not provide for taking any action of a kind which may not be taken under this legislation, the Emergency Petroleum Allocation Act of 1973, or the Clean Air Act,

(3) shall apply according to its terms in each State except as otherwise provided in the regulation, and

(4) may not deal with more than one logically consistent subject matter.

An energy conservation regulation may be amended or repealed only in accordance with section 105(b), except that technical or clerical amendments may be made in accordance with section 553 of title 5, United States Code.

Subject to provisions relating to Congressional approval or disapproval, a provision of an energy conservation regulation shall remain in effect for a period specified in the plan but may not remain in effect after May 15, 1975.

The term "energy action" is defined to mean an energy conservation regulation or an amendment (other than a technical or clerical amendment) or repeal of such an energy conservation regulation.

The Administrator must transmit any energy action (bearing an identification number) to each House of Congress on the date on which it is promulgated.

If an energy action is transmitted to Congress before March 1, 1974, and provides for an effective date earlier than March 1, 1974, then such action shall take effect on the date provided in the action; but if either House, before the end of the first period of 15 calendar days of continuous session of Congress after the date on which the plan is transmitted to it, passes a resolution stating in substance that that House does not favor the energy action, such action shall cease to be effective on the date of passage of such resolution.

If an energy action is transmitted to Congress and provides for an effective date on or after March 1, 1974 and before July 1, 1974, such action shall take effect in most cases at the end of the first period of 15 calendar days of continuous session of Congress after the date on which the plan is transmitted to it unless, between the date of transmittal and the end of the 15-day period, either House passes a resolution stating in substance that that House does not favor the energy action.

A plan proposed to be made effective on or after July 1, 1974, shall take effect only if approved by Congress by law.

In carrying out the provisions of this legislation, the Administrator must, to the greatest extent practicable, evaluate the potential economic impacts of proposed regulatory and other actions. This would include but not be limited to the preparation of an analysis of the effect of such actions on certain entities and other things which are enumerated.

The Administrator must also develop analyses of the economic impact of various conservation measures on States or significant sectors thereof, considering the impact on both energy for fuel and energy as feed stock for industry. Such analysis shall, wherever possible, be made explicit and to the extent practicable other Federal agencies and

agencies of State and local governments which have special knowledge and expertise relevant to the impact of proposed regulatory or other actions shall be consulted in making the analysis, and all Federal agencies shall cooperate with the Administrator in preparing such analyses.

The Administrator, together with the Secretaries of Labor and Commerce, must monitor the economic impact of any energy actions taken by the Administrator, and must provide the Congress with separate reports every thirty days on the impact of the energy shortage and such emergency actions on employment and the economy.

COAL CONVERSION AND ALLOCATION

Senate bill

Section 204(a) would authorize the President to require that any major fossil fuel burning installation (including existing electric generating plants) which has the ready capability and necessary plant equipment to burn coal or other fuels, convert to burning coal or other fuels as its primary energy source. Any installation so converted could be permitted to use such fuel for more than one year, subject to the provisions of the Clean Air Act. To the extent practicable, plant conversions would first be required where the use of coal would have the least adverse environmental impact. Such conversions would be contingent on the availability of coal and reliability of service.

The President would require that fossil fuel fired electrical powerplants now being planned be designed and constructed so as to have capability of rapid conversion to burn coal.

The President could require that certain fossil fuel fired baseload powerplants (other than combustion turbine and combined cycle units) now being planned be designed and constructed so to be capable of rapid conversion to burn coal.

House amendment

The provisions of section 106 of the House amendment are in most respects the same as in the Senate bill with the following exceptions:

(1) Under the House amendment the powers and duties are vested in the Administrator of the Federal Energy Administration rather than the President.

(2) Any installation limited to burning coal as its primary energy source under the legislation or which converted to the use of coal after beginning such conversion within 90 days before the effective date of the legislation could continue to use coal until January 1, 1980, if the Administrator of the EPA approves a plan submitted by the operator of such installation after notice to interested persons and opportunity for presentation of views. The plan would have to meet requirements spelled out in section 106 (b)(1).

(3) The Administrator of EPA or a State or local agency could, after notice to interested persons and an opportunity for presentation of views, (A) prohibit any such installation from using coal if it determines that such use is likely to materially contribute to a significant risk to public health, or (B) require any such installation to use a particular type and grade of coal if such coal is available.

(4) The Administrator would be authorized to prescribe a system for allocation of coal.

Conference substitute

Section 106 of the conference substitute provides that the Administrator shall, to the extent practicable and consistent with the objectives of this Act, by order, after balancing on a plant-by-plant basis the environmental effects of use of coal against the need to fulfill the purposes of this legislation, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this legislation, has the capability and necessary plant equipment to burn coal. Any installation to which such an order applies is permitted to continue to use coal as provided in section 119(b) of the Clean Air Act. To the extent coal supplies are limited to less than the aggregate amount of coal supplies which may be necessary to satisfy the requirements of those installations which can be expected to use coal (including installations to which orders may apply under this subsection), the Administrator shall prohibit the use of natural gas and petroleum products for those installations where the use of coal will have the least adverse environmental impact. A prohibition on use of natural gas and petroleum products hereunder is contingent upon the availability of coal, coal transportation facilities, and the maintenance of reliability of service in a given service area.

The administrator must require that fossil-fuel-fired electric powerplants in the early planning process, other than combustion gas turbine and combined cycle units, be designed and constructed so as to be capable of using coal as a primary energy source instead of or in addition to other fossil fuels. No fossil-fuel-fired electric powerplant is required to be so designed and constructed, if (1) to do so would result in an impairment of reliability or adequacy of service, or (2) if an adequate and reliable supply of coal is not available and is not expected to be available. In considering whether to impose a design or construction requirement, the Administrator shall consider the existence and effects of any contractual commitment for the construction of such facilities and the capability of the owner or operator to recover any capital investment made as a result of the conversion requirements of this section.

The Administrator is authorized by rule to prescribe a system for allocation of coal to users thereof in order to attain the objectives specified in this section.

MATERIALS ALLOCATION

Senate bill

The first paragraph of section 313 would authorize the President to allocate supplies of materials, equipment, and fuel associated with exploration, production, refining, and required transportation of energy supplies to maintain and increase the production of coal, crude oil, natural gas, and other fuels.

Under section 606 the President would be authorized to allocate residual fuel oil and refined petroleum products for the maintenance of exploration for, and production or extraction and processing of, minerals, and for transportation related thereto.

House amendment

Section 103(b) would amend section 4(b) of the EPAA to provide for such allocation for maintenance of exploration for, and production or extraction of fuels and minerals essential to the requirements of the United States, and for required transportation related thereto.

Section 210 would allow the formulation of rules to provide the necessary fuels for all operations of any project or enterprise authorized by the Federal Government.

Conference substitute

Under section 107(a) of the conference substitute, the Administrator must within 30 days after enactment of the legislation propose and publish a contingency plan for allocation of supplies of materials and equipment necessary for exploration, production, refining, and required transportation of energy supplies and for the construction and maintenance of energy facilities. When he finds it necessary to put all or part of the plan into effect, he must transmit the plan or portion thereof to Congress and such plan or portion thereof shall take effect in the same manner as an energy conservation plan prescribed under section 105.

Section 107(b) of the conference substitute is the same as section 103(b) of the House amendment which is described above.

FEDERAL ACTIONS TO INCREASE AVAILABLE DOMESTIC PETROLEUM SUPPLIES

Senate bill

Section 207 would authorize the President—

(a) to require that existing domestic oil fields produce at their maximum efficient rate (MER). MER is a level of production fixed by State agency regulation at which it is estimated that production can be sustained without detriment to the ultimate recovery;

(b) to require certain designated oilfields, on lands in which there is a Federal interest, to produce in excess of their maximum efficient rate. Such fields would be those in which production in excess of their currently assigned maximum efficient rate would not result in excessive risk of losses of recovery;

(c) to require adjustment of product mix in domestic refinery operations, in accordance with national needs and priorities; and

(d) to order acceleration of oil and gas leasing programs, both onshore and offshore, and for geothermal leasing. Such an accelerated program would be subject to the provisions of all existing laws, including the National Environmental Policy Act.

House amendment

Section 103(a) would add a new section 4(h)(4) to the EPAA which would vest the President with the same authority with respect to refineries as provided in section 207(c) of the Senate bill.

Section 103(a) would also add new section 4(i) to the EPAA. This new section would authorize the President to require the production of crude oil at the MER. He would consult with the Department of the Interior and with State governments in order to determine which producers shall be so required. The MER would be as determined by the State in which the field is located. However, after consultation

with such State or with the Department of the Interior, the President may set a higher rate if he determines that in doing so the ultimate recovery of crude oil and natural gas is not unreasonably impaired.

Existing and future development plans for the production of crude oil on Federal lands would include or be amended to include provisions for the secondary recovery and, insofar as possible, the tertiary recovery of crude oil before the well was abandoned.

Conference substitute

Section 108(a) of the conference substitute is substantially the same as the provisions of the Senate bill described above, except that section 108 vests the authority in the Administrator of FEEA rather than the President, and the provisions for accelerated leasing programs are not included.

Section 108(b) of the conference substitute provides that nothing in this section shall be construed to authorize the production of any Naval Petroleum Reserve now subject to chapter 641 of title 10 of the U.S.C.

OTHER AMENDMENT TO THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973

Senate bill

No provision.

House amendment

Section 103(a) of the House amendment would have added a new subsection (l) to section 4 of the Emergency Petroleum Allocation Act. Such new subsection would require that, if any allocation of residual fuel oil or refined petroleum products under section 4(a) of the EPAA is based on the amount used or supplied during a historical period, adjustments could be made reflecting regional disparities in use, or unusual factors influencing use, in the historical period. This subsection would take effect 30 days after enactment of the legislation.

Section 103(c) would amend section 4(c)(3) of the EPAA to direct the President, when requiring adjustments in allocations, to take into account lessened use of crude oil, residual fuel oil, and refined petroleum products prior to enactment as a result of unusual regional climatic variations.

Section 103(d) would amend section 4(g)(1) of the EPAA to change the termination date in each case to May 15, 1975.

Conference substitute

Section 109 of the conference substitute is the same as the House amendment, except that—

(1) the new subsection which would be added to section 4 of the EPAA would be designated as subsection (i),

(2) population growth and unusual changes in climatic conditions are added as factors on which adjustments under the subsection can be based, and such adjustments to reflect population growth will be based on the most current figures available from the Bureau of the Census, and

(3) a specific provision has been added so that adjustments under the subsection shall take effect no later than 6 months after the date of enactment of the legislation.

(4) the amendment to section 4(c)(3) is omitted.

PROHIBITION OF WINDFALL PROFITS—PRICE GOUGING

Senate bill

No provision.

House amendment

Section 117 would amend section 4 of the Emergency Petroleum Allocation Act of 1973 by adding a new subsection to prevent price gouging with respect to sales of crude oil, residual fuel oil, refined petroleum products, and *coal*, including sales of diesel fuel to motor common carriers. The amendment would direct the President to use authority under the Act and under the Economic Stabilization Act of 1970, to specify prices for sales of crude oil, refined petroleum products, residual fuel oil, produced in or imported into the United States, which avoid windfall profits by sellers.

Any interested person who had reason to believe that established prices allowed windfall profits could petition the Renegotiation Board for a determination by rule of the existence of such profits and for their recovery. The seller would be afforded a hearing in accordance with the procedures required by section 554 of title 5, United States Code. Upon final determination that such price permitted windfall profits, the Board would order the seller to refund an equivalent amount to those affected purchasers reasonably ascertainable. The Board could order a reduction in price for future sales of such item or take other appropriate action. The Board's final determination is subject to judicial review.

The term "windfall profits" would be specifically defined in paragraphs (6) and (7). Such profits would refer only to profits earned during the period beginning with the enactment of the Act and ending on the date of its expiration. Actions to determine or recover windfall profits must be brought within one year of the Act's expiration.

Conference substitute

Section 110 of the conference substitute is the same as the House amendment, except that—

(1) The section is no longer an amendment to the Emergency Petroleum Allocation Act.

(2) A new subsection 110(a)(10) has been added which provides that no provision of this section 110 in its entirety shall take effect prior to January 1, 1975. When section 110 does take effect on January 1, 1975, it shall apply to profits attributable to prices charged after December 31, 1973 for crude, residual oil and refined petroleum products.

(3) A new and separate section 129 has been added to the conference substitute which requires the President to set prices for crude oil, residual fuel oil and refined petroleum products which avoid windfall profits. That term "windfall profits" is separately defined in that subsection to mean profits which are excessive or unreasonable, taking into consideration normal profit levels. The new section 129 shall be in effect only until December 31, 1974.

PROTECTION OF FRANCHISED DEALERS

Senate bill

Section 607 would provide for protection of franchised dealers. The term "franchise" would mean any agreement or contract between a refiner or a distributor and a retailer or between a refiner and a distributor, as these terms were defined by the section. A refiner or distributor was prohibited from terminating a franchise unless he furnished prior notification to each affected distributor or retailer in writing by certified mail not less than 90 days prior to the date on which such franchise would be canceled. Such notification must contain a statement of intention to terminate with the reasons therefor, the date on which such action would take effect, and a statement of the remedy or remedies available to such distributor or retailer. This franchise could not be terminated by the refiner or distributor unless the affected retailer or distributor failed to comply substantially with any essential and reasonable requirement of such franchise or failed to act in good faith in carrying out its terms, or unless such refiner or distributor withdrew entirely from the sale of petroleum products in commerce for sale other than resale in the United States.

A retailer with a franchise agreement could bring suit against a distributor or refiner whose actions affected commerce and who has engaged in conduct prohibited by this section. Similarly, a distributor could bring suit against a refiner. Such suits could be brought in a United States district court if commenced within three years after the cancellation, failure to renew, or termination of a franchise. The district court was empowered to grant the necessary equitable relief including declaratory judgment and injunctive relief. The court could grant an award for actual and punitive damages as well as reasonable attorney and expert witness fees.

House amendment

Section 113 amended the Emergency Petroleum Allocation Act of 1973 to provide for fair marketing of petroleum products. Certain terms were defined, including "commerce" to mean commerce between a state and a point outside such state; "marketing agreement" to mean a specified portion of an agreement or contract between a refiner and a branded independent marketer.

The notice and termination requirements would be the same as those in the Senate bill except that termination could not be made for withdrawal from the market unless the refiner did not for three years after termination engage in the sale of petroleum products in the same relevant market area within which the terminated marketer operated. Another difference required a terminated marketer to bring suit in district court against a refiner within four years after the date of termination of such marketing agreement.

Conference substitute

Section 111 of the conference substitute is the same as the Senate bill, except that—

(1) the terms "distributor", "refiner" and "retailer" are defined in terms of a *person* engaged in certain acts, rather than in terms of an *oil company* engaged in certain acts as in the Senate bill, and

(2) in the case of an action for failure to renew a franchise, damages would be limited to actual damages including the value of the dealer's equity.

PROHIBITIONS ON UNREASONABLE ACTIONS

Senate bill

No provision.

House amendment

Section 115 provides that actions taken under the legislation, the Emergency Petroleum Allocation Act of 1973, or other Federal law resulting in allocation or restriction on the use of refined petroleum products and electrical energy must be equitable and not arbitrary or capricious or unreasonably discriminate among users.

In the case of allocations of petroleum products applicable to foreign commerce no foreign entity would receive more favorable treatment than that which is accorded by its home country to U.S. citizens in the same line of commerce. Allocations would include provisions designed to foster reciprocal and nondiscriminatory treatment by foreign countries of U.S. citizens engaged in foreign commerce.

Section 105(c) would provide that, to the maximum extent practicable, restrictions on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden on all sectors of the economy, without imposing an unreasonably disproportionate share on any specific industry, business, or commercial enterprise, and shall give due consideration to the needs of commercial, retail, and service establishments with unconventional working hours.

Conference substitute

Section 112 of the conference substitute is the same as the House amendment except that section 112(a) refers to allocation of petroleum products and electrical energy among classes of users. Section 112(b) incorporates the provisions of section 105(c) of the House amendment, without the specification that the normal function of commercial, retail, and service establishments must be to supply goods and services of an essential nature.

REGULATED CARRIERS

Senate bill

Under section 204(b)(1), the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission with respect to certain carriers which they regulate could make reasonable and necessary adjustments in the operating authority of such carriers in order to conserve fuel.

Setion 204(b)(2) would require each of these agencies to report to the appropriate Committees of Congress within 15 days after enactment of the legislation on the need for additional regulatory authority to conserve fuel.

House amendment

Sections 107(a) and 107(d) of the House amendment are substantially the same as the provisions of the Senate bill described above, except that the reports of the ICC, CAB, and FMC would not have to

be submitted until 60 days after the date of enactment of the legislation.

In addition, section 107(b) would require the ICC to eliminate restrictions on the operating authority of any motor common carrier of property which require excessive travel between points. This would be done without disrupting essential service to communities served by any such carrier.

Section 107(c) would require the ICC to adopt rules which contribute to conserving energy by eliminating discrimination against the shipment of recyclable materials in rate structures and Commission practices.

Conference substitute

Section 113 of the conference substitute is the same as the House amendment with two exceptions. The reports of the ICC, CAB, and FMC must be submitted within 45 days after enactment and section 107(c) of the House amendment is deleted.

ANTITRUST LAWS

Senate bill

Under section 314, the President would develop plans of action and could authorize voluntary agreements which are necessary to achieve the purposes of the legislation. In addition, the President could provide for the establishment of interagency committees and advisory committees.

Advisory committees would be subject to the Federal Advisory Committee Act of 1972 and would be chaired by a regular full-time Federal employee.

An appropriate representative of the Federal Government would attend each meeting of any advisory committee or interagency committee established under the legislation. The Attorney General and the Federal Trade Commission would be given advance notice of any meeting and could have an official representative attend and participate in any such meeting.

A verbatim transcript would be kept of all advisory committee meetings, and subject to existing law concerning the national security and proprietary information, would be deposited together with any agreement resulting therefrom with the Attorney General and the Federal Trade Commission. The transcript would be available for public inspection.

The Attorney General and the Federal Trade Commission would participate in the preparation of any plans of action or voluntary agreement and could propose any alternative which would avoid, to the greatest extent practicable, any anticompetitive effects while achieving the purposes of the legislation. They would also review, amend, modify, disapprove or prospectively revoke any plan of action or voluntary agreement which they determined was contrary to the purposes of section 314 or not necessary to achieve the purposes of the legislation.

If necessary to achieve the purposes of the legislation, owners, directors, officers, agents, employees, or representatives of two or more persons engaged in the business of producing, transporting, refining, marketing, or distributing crude oil or any petroleum product would

meet, confer, or communicate in accordance with the provisions of section 314 and solely to achieve the objectives of the legislation. In those instances, such persons would have a defense against any civil or criminal action brought under the antitrust laws.

The Attorney General would be granted authority to exempt certain meetings, conferences, or communications from being chaired by a regular full-time Federal employee or from the requirement that a verbatim transcript be kept, deposited with the Attorney General and Federal Trade Commission and made available for public inspection.

The President could delegate the functions of developing plans of action, authorizing voluntary agreements, and providing for the establishment of interagency committees and advisory committees.

Section 708 of the Defense Production Act of 1950 would not apply to any action taken under this legislation or the Emergency Petroleum Allocation Act of 1973. The provisions of section 314 would apply to the latter Act, notwithstanding any inconsistent provisions of section 6(c) thereof.

There would be a defense available to any civil or criminal action brought under the antitrust laws arising from any course of action, meeting, conference, communication or agreement which was held or made in compliance with the provision of this section.

The Attorney General and the Federal Trade Commission would be responsible for monitoring any plan of action, voluntary agreement, regulation, or order approved under section 314 to prevent anticompetitive practices and promote competition.

The Attorney General and the Federal Trade Commission would promulgate joint regulations concerning maintenance of documents, minutes, transcripts, and other records relating to the implementation of any plan of action, voluntary agreement, regulation, or order approved under the legislation. Persons involved in any such implementation would be required to maintain the record required by any such joint regulation and make them available for inspection by the Attorney General and the Federal Trade Commission at reasonable times on reasonable notice.

Actions taken by the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission under section 204(b)(1) would not have as their principal purpose or effect the substantial lessening of competition among the carriers affected. Actions taken under that section would be taken only after providing an opportunity for participation to the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division.

House amendment

The provisions of section 120 are similar to the provisions in the Senate bill described immediately above. However, the following differences should be noted:

The House version vests various powers and duties in the Administrator of the Federal Energy Administration. In the Senate version powers and duties were vested in the President.

The House version requires that advisory committees include representatives of the public and be open to the public.

The Administrator, subject to the approval of the Attorney General and the Federal Trade Commission would by rule promulgate standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil, or any refined petroleum product could develop and implement voluntary agreements and plans of action to carry out such agreements which the Administrator determines are necessary to accomplish the objectives of section 4(b) of the EPAA. Such standards and procedures would be promulgated under the section 553 of title 5, United States Code. Several standards and procedures are set forth and required by the legislation.

The Federal Trade Commission instead of the Attorney General could exempt types or classes of meetings, conferences, or communications from the requirement that a verbatim transcript be kept and deposited with the Attorney General and Federal Trade Commission and made available for public inspection and copying.

Any voluntary agreement or plan of action entered into under the section would have to be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented and would be available for public inspection and copying.

The Attorney General and the Federal Trade Commission could each prescribe rules and regulations necessary or appropriate to carry out their responsibilities under the legislation.

The Attorney General and the Federal Trade Commission would each submit to the Congress and the President at least once every 6 months a report on the impact on completion and on small business of actions authorized by section 120.

The authority granted under section 120 and any immunity from the antitrust laws thereunder would terminate on December 31, 1974.

Retail and Service Establishments—Voluntary Energy Conservation Agreements

Section 114 of the House amendment would provide that within fifteen days of enactment of the legislation, the Administrator, in consultation with the Attorney General and the Federal Trade Commission, would promulgate standards and procedures for retail or service establishments to enter into voluntary agreements to limit operating hours, adjust retail-store delivery schedules and take such other action as the Administrator, after consultation with the Attorney General and the Federal Trade Commission, determines to be necessary and appropriate to accomplish the objectives of this Act.

Such standards and procedures would be promulgated pursuant to section 553 of title 5 of the United States Code. Among these standards and procedures would be provision for the filing of a copy of any agreement with the Attorney General and the Federal Trade Commission, which would be available for public inspection. Meetings held to develop and implement a voluntary agreement could be at-

tended by interested persons, who would be afforded opportunity to make oral and written presentations, and such meetings shall be preceded by timely notice to the Attorney General, the Federal Trade Commission and be available for public in the affected community. A summary of such meeting, along with any written presentation of interested persons, would be submitted to the Attorney General and the Federal Trade Commission and be available for public inspection. Actions in good faith which are taken by firms in conformity with this section to develop and implement a voluntary energy conservation agreements shall not be construed to be within the prohibitions of the antitrust laws of the United States, the Federal Trade Commission Act or similar State statutes.

Any voluntary agreement entered into under this section would be submitted to the Attorney General 10 days before being implemented. The Attorney General at any time on his own motion or upon request of any interested person could disapprove any voluntary agreement under section 114 and thereby withdraw prospectively any immunity from the antitrust laws.

No voluntary agreement under this section would pertain to activities relating to marketing and distribution of crude oil, residual fuel oil or refined petroleum products, which are matters dealt with under section 120. Also, this section is limited to those voluntary agreements in which all members have 75 per cent of their annual sales not for resale and recognized as retail in the particular industry, as determined by the Attorney General.

The Attorney General and the Federal Trade Commission would be required to submit to Congress and the President at least once every six months a report on the impact on competition and on small business of agreements authorized by this section.

Conference substitute

Section 114 of the conference substitute is the same as section 120 of the House amendment, except that the authority granted and any immunity from the antitrust laws thereunder would terminate on May 15, 1975.

EXPORTS

Senate bill

Subsection (e) of section 207 authorized the President to limit the export of gasoline, number 2 fuel oil, residual fuel oil, or any other petroleum product, pursuant to the Export Administration Act of 1969, to achieve the purposes of the Act.

House amendment

To the extent necessary to carry out the purposes of the Act, section 123 authorized the Administrator by rule to restrict exports of coal, petroleum products, and petrochemical feedstocks, under such terms as he deems appropriate. He must restrict exports of such commodities if the Secretary of Commerce or the Secretary of Labor certified that such exports would contribute to unemployment in the United States. The Administrator could use, but was not limited to, existing statutes such as the Export Administration Act of 1969. Rules should take into account the historical trading relations with Canada and Mexico and should not be inconsistent with section 4(b) and (d) of the Environmental Protection Agency Act.

Conference substitute

Section 115 of the conference substitute follows the provisions of the House amendment. The authority of the Administrator to set appropriate terms for the restriction of exports of coal, petroleum products, and petrochemical feedstocks and the requirement that he do so upon certification by the Secretary of Commerce or the Secretary of Labor is the same as in section 123 of the House amendment.

In addition, the Secretary of Commerce, pursuant to the Export Administration Act of 1969 may restrict the exports of coal, petroleum products, and petrochemical feedstocks, and of materials and equipment essential to the production, transport, or processing of fuels to the extent necessary to carry out the purpose of this legislation and sections 4(b) and 4(d) of the Emergency Petroleum Allocation Act of 1973. If the Administrator certifies to the Secretary of Commerce that export restrictions of such commodities are necessary to carry out the purposes of this legislation, the Secretary of Commerce shall impose such export restrictions. The requirements for rules in the House amendment are also applied to actions taken by the Secretary of Commerce under the Export Administration Act of 1969.

The Committee has confined the export control authority to petrochemical feedstocks, coal, and petroleum products which are subject to allocation under the Emergency Petroleum Allocation Act of 1973. In using the term "petrochemical feedstocks" the Committee intends to identify the basic hydrocarbon derivatives of crude oil such as propane, butane, naphtha, olefins such as ethylene and propylene, aromatics such as benzene, toulene and the xylenes, extender oil used in the manufacture of rubber, and aromatic oils used in the manufacture of carbon black.

The Committee has vested separate authority in both the Administrator and the Secretary of Commerce (in connection with the administration of the Export Administration Act. This will insure that the essential needs of American consumers will be met and that private enterprises will not be permitted to export energy in a manner not in accord with the national interest.

EMPLOYMENT IMPACT AND WORKER ASSISTANCE

Senate Bill

Section 208 would direct the President to take into consideration and minimize, to the fullest extent practicable, any adverse impact of actions taken under this Act upon employment. All government agencies would be directed to cooperate fully to minimize any such adverse impact.

Section 501 would direct the President to make grants to states to provide unemployment assistance to individuals as he deemed appropriate during the individual's unemployment. The individual must be not otherwise eligible for unemployment compensation or have exhausted his eligibility for it. There is a two-year limitation on the eligibility for such assistance and a limitation on the amount.

This section would also authorize the President to prescribe terms and conditions for the distribution of food stamps through the Sec-

retary of Agriculture pursuant to the provisions of the Food Stamp Act of 1964, as amended, for so long as he determined necessary. The Secretary of Labor would be directed to provide reemployment assistance services under other laws to any unemployed individual, including assistance to relocate in another area where employment was available.

The President would be directed, acting through the Small Business Administration, to make loans to aid in financing domestic projects required by the Administration for administration or enforcement of the Act for approved private and public applicants. The President would determine the terms and conditions of such financial assistance subject to stated exceptions.

The authorization of such appropriations as might be necessary to carry out the provisions of this section would be included. The Secretary of Labor must report to Congress on the implementation of this section no later than six months after enactment and annually thereafter. The report must include an estimate of the funds necessary in each of the succeeding three years.

House amendment

Section 122 included provisions very similar to those in the Senate bill except that the distribution of food stamps and reemployment assistance and Small Business loans would not be provided for. Also, the President was required to report to Congress within 60 days of enactment on the present and prospective impact of energy shortages upon employment, the adequacy of existing programs to deal with such impact, and recommendations for legislation needed to adequately meet the needs of adversely affected workers.

Conference substitute

Section 116 of the conference substitute is the same as the House amendment, except that the provision for authorization of appropriations is deleted.

In adopting this provision, the Conferees expressed the serious concern that a broad interpretation of this section could result in massive Federal expenditures beyond those intended by this provision. The Conferees therefore wish to make it clear that this section is intended to apply only to those persons directly unemployed as a result of the implementation of any of the authority provided for in this Act.

The authorization is limited to $500,000,000 for the remainder of fiscal year 1974. Funds for this purpose must, of course, be appropriated by the Congress.

The Committee intends that at a time when the American people are being called upon to make sacrifices and share the burden of the energy shortage the Federal government should provide a program of unemployment assistance to State government that is adequate to cover essential human needs.

USE OF CARPOOLS AND GOVERNMENT MOTOR VEHICLES

Senate Bill

Section 605 directs the Secretary of Transportation to encourage the creation and expansion of the use of carpools and to establish within

DOT an Office of Carpool Promotion and authorizes an appropriation of $25,000,000 for the conduct of programs to promote carpools. Appropriated funds would be allocated to State and local governments in fixed proportions to carry out the promotion of carpooling. The Secretary would make a report to the Congress within one year after enactment of the legislation on his activities and expenditures under section 605.

Section 603 would generally preclude the use of funds for passenger motor vehicles or to pay the salaries of drivers of such vehicles unless they are operated out of carpools.

This would not apply to vehicles for the use of the President and one each for the Chief Justice, members of the President's Cabinet, and the elected leaders of Congress, or to vehicles operated to provide regularly scheduled service on a fixed route.

House Amendment

Section 116(a)–(f) of the House amendment is generally the same as the provisions of section 605 of the Senate bill with respect to carpools, except that only $1 million is authorized to carry out the provisions of the section. Section 116(g) would define local governments and local units of government.

The President under section 116(h) would be required to take action to require all agencies of the Government, where practicable, to use economy model motor vehicles.

Section 116(h) would also specify the number of "fuel inefficient" motor vehicles which could be purchased for the Federal Government in fiscal years 1975 and 1976.

Section 116(i) would direct the President to take action to prevent with specified exceptions any officer or employee in the Executive Branch below the rank of Cabinet officer from being furnished a limousine for his individual use.

Conference Substitute

Section 117(a) through (h) of the conference substitute is the same as section 116(a) through (h) of the House amendment with two exceptions. The sum of $5 million, not $1 million, is authorized to be appropriated for the conduct of programs to promote carpools, such authorization to remain available for two years. Also, the provisions in section 116(h) of the House amendment on government motor vehicles specifying the number of "fuel inefficient" motor vehicles which could be purchased has been deleted.

ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

Senate bill

Section 311(a) would waive the more time-consuming procedures of the Administrative Procedure Act, notably the requirements of adjudicatory hearings according to section 554 of title 5, United States Code, which could otherwise apply to functions exercised under the Act. However, the requirements of sections 552, 553 (as modified by section 311(b) of the Act), 555 (c) and (e), and 702 would apply to such functions.

Section 311(b) would require that all rules, regulations, or orders promulgated pursuant to the Act be subject to the provisions of section 553 of title 5, United States Code, with the following exceptions: (1) Notice and opportunity to comment (a minimum of five days) by publication in the Federal Register of all proposed general rules, regulations or orders (this requirement could be waived upon a finding that strict compliance would cause grievous injury); (2) public notice of State rules, regulations, or orders promulgated pursuant to section 203 of the Act by widespread publication in newspapers of statewide circulation, and (3) public hearings on those rules, regulations, or orders issued by authorized agencies and determined to have substantial impact, to be held prior to implementation to the maximum extent practicable and no later than sixty days following implementation.

Section 311(c)(1) would require, in addition to the requirements of section 552 of title 5, United States Code, any agency authorized to issue rules or orders to make available to the public all internal rules and guidelines upon which they are based, modified as necessary to insure confidentiality protected under such section 552. Such agency must publish written opinions on any grant or denial of a petition requesting exemption or exception within thirty days with appropriate modifications to insure confidentiality.

Authorized agencies would also be required to make adjustments to prevent hardships and establish procedures available to any person making appropriate requests.

Section 311(d) would require the President's proposals submitted pursuant to section 301 of the Act to include findings of fact and explanation of the rationale for each provision, proposed procedures for the removal of restrictions imposed, and a schedule for implementing the provisions of section 552 of title 5, United States Code.

Section 312 contained judicial review provisions. National programs required by the Act and regulations establishing such national programs could be challenged only in the United States Court of Appeals for the District of Columbia within 30 days of the promulgation of the regulations. Programs and regulations of general, not national, applicability (to a State, or several States, or portions thereof) could be challenged only in the United States Court of Appeals for the appropriate circuit within 30 days of promulgation. Otherwise, the United States district courts would have original jurisdiction of all other litigation arising under the Act.

However, this section would not apply to actions taken under the act by the Civil Aeronautics Board, the Interstate Commerce Commission, the Federal Power Commission, or the Federal Maritime Commission. The judicial review provisions in their respective organic acts would apply for the sake of uniformity.

House amendment

Section 109(a) would provide for the streamlining of administrative procedures for actions taken pursuant to this Act and the Emergency Petroleum Allocation Act, including the formulation of energy conservation plans.

Actions taken under title I of the bill and under the allocation exchange authority in section 205 would be subject to special adminis-

trative procedure and judicial review provisions. Section 109 would provide expedited administrative procedures for Federal actions. These same procedures would also apply to State actions unless the Federal Energy Administrator specified different but comparable procedures for the State. Included among the procedures are publication and notice and an opportunity for comment on agency rules and orders. All rules and orders issued by Federal and State agencies both under title I and under the new subsections (h) and (i) of section 4 of the Emergency Petroleum Allocation Act would be required to include provisions for making adjustments in hardship cases.

Section 109(b) would provide judicial review of rules issued under these provisions in the Temporary Emergency Court of Appeals which was created under the Economic Stabilization Act. Orders issued in individual cases would be reviewed first in the United States district court and then in the Temporary Emergency Court of Appeals.

Section 109(c) would authorize the Administrator to prescribe by rule procedures for State or local boards carrying out functions under the Act or the Emergency Petroleum Allocation Act. Such procedures would apply in lieu of those in section 109(a) and would require notice to affected persons and an opportunity for presentation of views. Such boards must be of balanced composition reflecting the makeup of the community as a whole.

The bill would not alter the judicial review provisions of the Clean Air Act. These would continue to apply to actions taken by the Administrator of EPA under that Act, including the amendments made to that Act by the Energy Emergency Act.

Conference Substitute

Section 118 of the conference substitute incorporated provisions of both the Senate bill and the House amendment. The administrative procedures of section 118(a) are the same as the streamlined administrative procedures of section 109(a) of the House amendment, with the addition of section 311(c)(1) of the Senate bill as section 118(a)(5) of the conference substitute.

Section 118(b) on judicial review is the same as section 312 of the Senate bill, except that any actions taken by any State or local officer who has been delegated authority under section 122 of the conference substitute would be subject either to district court jurisdiction or to appropriate State courts.

PROHIBITED ACTS

Senate bill

No provision.

House amendment

Section 110 stated that the following acts would be prohibited under the Act: (1) to deny full fillups of diesel fuel to trucks, unless a rationing program is in effect which restricts such full fillups to trucks or if the diesel fuel is not available for sale; (2) to violate any order concerning the use of coal as a primary energy source pursuant to section 106; (3) to violate export restrictions established under section 123; (4) to violate any order of the Renegotiation Board issued pursuant to its authority under section 117.

Conference substitute

Section 119 of the conference substitute makes it unlawful for any person to violate any provision of Title I of this legislation (except provisions making amendments to the Emergency Petroleum Allocation Act and section 113) or to violate any rule, regulation (including an energy conservation plan), or order issued pursuant to such provisions.

ENFORCEMENT

Senate bill

Section 306 provided for application by the Attorney General to the appropriate United States district court to restrain violation of the Act or regulations or orders issued thereunder by issuing a temporary restraining order, preliminary or permanent injunction.

Section 307 provided for a criminal penalty of not more than $5,000 for each willful violation of any order or regulation issued pursuant to the Act and a civil penalty of not more than $2,500 for each day of each violation of any order or regulation issued pursuant to the Act. In addition, subsection (c) made it unlawful to sell or distribute in commerce any product or commodity in violation of an applicable order or regulation. Any person who knowingly and willfully, after having been subjected to a civil penalty for a prior violation of any order or regulation violated the same provision of that order or regulation would be fined not more than $50,000 or imprisoned not more than six months, or both.

House amendment

Section III provided for fines up to $5,000 for each willful criminal violation of the Act, and civil penalties up to $2,500 for each violation of any provision of a prohibited act.

The Attorney General was authorized by this section to obtain temporary restraining orders or preliminary injunctions against actual or impending violations of this Act. It also provided for the private injunction actions.

Conference substitute

Section 120 of the conference substitute is the same as the House amendment. In addition, the provisions of subsection (c) of section 307 of the Senate bill are included.

USE OF FEDERAL FACILITIES

Senate bill

Section 305 would provide for the use of surplus government equipment or facilities, whenever practicable and to facilitate the transportation and storage of fuel, by domestic public entities and private industries for the duration of the emergency. Arrangements for such use with Federal agencies or departments must be made at fair market prices and only if such facilities or equipment would be needed, otherwise unavailable, and not required by the Federal government.

House amendment

No provision.

Conference substitute

Section 121 of the conference substitute is the same as the Senate bill, except that such government equipment or facilities must also

be appropriate to the transportation and storage of fuel and can be acquired as well as used by domestic public entities and private industries. The use of federal facilities is authorized during the period beginning on the date of enactment and ending May 15, 1975.

This provision was adopted by the conferees primarily for the purpose of freeing for use tankers now being kept in "mothballs" by the Armed Services. Such tankers, largely left over from World War II could be used by private carriers for storing oil or for transporting oil in coastwise trade where the Jones Act would otherwise prohibit the use of foreign tankers. It was the express intent of the conferees that any use of such surplus Federal equipment would not put the Federal government in the transportation business. The Navy, for example, would not be required to operate any tankers used for private shipment of oil.

DELEGATION OF AUTHORITY AND EFFECT ON STATE LAWS

Senate bill

Section 304 would provide that only State laws or programs which are inconsistent with this legislation would be superceded by it.

House Amendment

Section 108 would permit the Administrator to delegate all or any of his functions under the Act or the EPAA to any officer or employee of the Federal Energy Administration. He could also delegate any of his functions relative to implementation of regulations and energy conservation plans under either of such Acts to State officers or State and local boards of balanced composition. This section would also repeal section 5(b) of the EPAA, effective on the date of transfer of functions under such Act to the Administrator.

Conference substitute

Subsection (a) of section 122 of the conference substitute is the same as the House amendment except that the Administrator may only delegate any of his functions relative to implementation of energy conservation regulations to officers of a state or locality.

Subsection (b) is the same as the Senate bill, except that a technical amendment is made reflecting the fact that the terms "regulation", "order" and "energy conservation plan" are used in the legislation rather than "program".

The administrative mechanism for the implementation of the conservation and rationing program provided for in the Act must be such as to insure equity on a nationwide basis. At the same time it is imperative that it be responsive to the varying conditions and unique problems of the several States and regions of the Nation. For that reason, the conferees drew from both the House and Senate bills in drafting sections 104 and 122 which authorizes the Administrator to delegate functions assigned to him. Such delegation may be to either State and regional officers of the Administration or to the officers of a State or locality. For the implementation of rationing programs the establishment and use of State or local boards to handle hardship appeals and perform other functions is authorized. To insure that any rationing program is as just and equitable as possible, section 122 specifically requires that State or local boards must be of balanced com-

position so as to reflect the make up of the community as a whole. This provision is intended to insure that the interests of all classes of users are both represented and protected. The Act authorizes the appropriation of funds from which the Administrator may make grants to the States for the exercise of such authority as he may delegate or for the Administrator of State or local energy conservation measures which are independent of the authority in this Act.

GRANTS TO STATES

Senate bill

Section 315 would authorize the President to make grants to any State or major metropolitan government, in accordance with but not limited to, section 302 for the purpose of assisting, developing, administering, and enforcing emergency fuel shortage contingency plans under the Act and fuel allocation programs authorized under the Emergency Petroleum Allocation Act of 1973.

House amendment

Section 112 authorized to be appropriated such sums as might be necessary for the purpose of making grants to States to which the Federal Energy Administrator has delegated authority under section 109. The Administrator would prescribe the terms and conditions for such grants.

Conference substitute

Section 123 of the conference substitute authorizes funds for the Administrator of the Federal Energy Emergency Administration to make grants to States for the purposes of implementing authority he has delegated to them, or for the administration of appropriate State or local conservation measures where exempted from Federal conservation regulations under section 105 of the Act.

In authorizing grants to States for the purpose of carrying out their responsibilities implementing this Act, it was the express intent of the conferees that, if a rationing program were implemented, additional sums would need to be appropriated for grants in aid to the States for their participation in the rationing program.

REPORTS ON NATIONAL ENERGY RESOURCES

Senate bill

No provision.

House amendment

Section 126 would require the Administrator to issue regulations requiring persons doing business in the United States who on the effective date of the legislation are engaged in exploring, developing, processing, refining, or transporting by pipeline, any petroleum product, natural gas, or coal, to provide reports to the Administrator.

Such reports would be submitted every 60 days and a report would be required to cover the period from January 1, 1970, to the date covered by the first 60-day report.

Each report would show for the period covered the person's (1) reserves of crude oil, natural gas, and coal, (2) production and desti-

nation of any petroleum product, natural gas, and coal, (3) refinery runs by-product, and (4) other data required by the Administrator.

The Administrator would publish quarterly in the *Federal Register* a summary analysis of the data provided by such reports.

These reporting requirements would not apply to retail establishments.

Where any person is reporting all or part of the required data to another Federal agency, the Administrator could exempt the person from reporting all or part of the data to him and such other Federal agency would provide the data to the Administrator.

Provisions are included to protect trade secrets and proprietary information.

Conference substitute

Section 124 of the Conference substitute is the same as the House amendment.

INTRASTATE GAS

Senate bill

Section 210 of the Senate bill would require the President, within 90 days after enactment of the legislation, to promulgate a plan for the development of hydroelectric resources. Such plan would provide for expeditious completion of projects authorized by Congress and for the planning of other projects designed to utilize available hydroelectric resources, including tidal power.

House amendment

Section 119 is the same as the Senate provision except that it would also apply to solar energy, geothermal resources, and pumped storage.

Conference substitute

Section 125 of the conference substitute provides that nothing in the legislation shall expand the authority of the Federal Power Commission with respect to non-jurisdictional natural gas.

EXPIRATION

Senate bill

Subsection (d) of section 202 would provide in part that the nationwide energy emergency and the authority granted by the Act would terminate one year after the date of enactment.

House amendment

Subsection (b) of section 125 would provide for the expiration of all authorities granted under Title I of the Act or under the Emergency Petroleum Allocation Act on May 15, 1975.

Conference substitute

Section 126 of the conference substitute follows the House amendment by providing that the authority under Title I to prescribe any rule or order or take other action shall expire on midnight, May 15, 1975. In addition, the authority under Title I to enforce any such rule or order shall likewise expire; however, such expiration shall not affect any action or pending proceedings, civil or criminal, not finally

determined on such date, nor any action or proceeding based upon any act committed prior to midnight, May 15, 1975.

AUTHORIZATION OF APPROPRIATIONS

Senate bill

Section 318 would authorize to be appropriated such funds as were necessary for purposes of the Act.

There were authorizations of appropriations for particular provisions which have been considered in the appropriate sections of this statement.

House amendment

The House amendment contained no provision for the authorization of funds to carry out all provisions of the Act but included authorizations of appropriations for particular provisions which have also been considered in the appropriate sections of this statement.

Conference substitute

Section 127 of the conference substitute authorizes an appropriation to the Federal Energy Emergency Agency to carry out its functions under this legislation and under other laws, and to make grants to states under section 123, of $75,000,000 for each of the fiscal years 1974 and 1975. In addition, for the purpose of making payments under grants to States to carry out energy conservation measures under section 123, $50,000,000 is authorized to be appropriated for fiscal year 1974 and $75,000,000 is authorized to be appropriated for fiscal year 1975. Also, for the purpose of making payments under grants to States under section 116, $500,000,000 is authorized to be appropriated for fiscal year 1974.

SEVERABILITY

Senate bill

Section 319 would provide that if any provision of the legislation or the applicability thereof is held invalid, the remainder of legislation would not be affected thereby.

House amendment

No provision.

Conference substitute

Section 128 of conference substitute follows the Senate bill and also specifies that if the application of any provision to any person or circumstance shall be held invalid, such application to other persons or circumstances shall not be affected thereby.

IMPORTATION OF LIQUIFIED NATURAL GAS

Senate bill

No provision.

House amendment

Section 118 would amend the Emergency Petroleum Allocation Act of 1973 by adding a new section 9. This new section 9 would authorize the President to permit liquified natural gas imports on a shipment-by-shipment basis until the expiration of the legislation.

Conference substitute

The Senate recedes.

PROHIBITION AGAINST FUEL ALLOCATION FOR CERTAIN SCHOOL BUSING

Senate bill

No provision.

House amendment

Section 103 would add a new section 4(k) to the Emergency Petroleum Allocation Act of 1973. Under section no refined petroleum product could be allocated under a mandatory fuel allocation regulation made under section 4(a) of that Act to be used to transport any public school student to a school farther than the public school closest to his home offering the courses for the grade level and course of study of the student which is within the school attendance district where the student resides.

This would not prevent the allocation of refined petroleum products for transportation to relieve overcrowding, to meet needs for special education, or if the transportation is within the regularly established neighborhood school attendance areas.

These provisions would not take effect until August 1, 1974.

Conference report

The House recedes.

NATIONAL ENERGY EMERGENCY ADVISORY COMMITTEE

Senate bill

Section 310 would establish a National Energy Emergency Advisory Committee to advise the President with regard to implementation of this legislation. The Chairman of the Committee would be the Director of the Office of Energy Policy.

The Committee would consist of 20 members (in addition to the chairman) appointed by the President representing specified interests.

The heads of listed Federal departments, agencies, and instrumentalities would designate a representative to serve as an observer at each meeting of the Committee and to assist the Committee in performing its functions.

House amendment

No provision.

Conference substitute

The Senate recedes.

SMALL BUSINESS AND HOMEOWNER ASSISTANCE

Senate bill

Section 209 would amend the Internal Revenue Code to allow a taxpayer to deduct an energy-conserving residential improvement expense, not to exceed $1,000, paid or incurred by him during the taxable year on his tax return for such year. These amendments apply

to taxable years ending after the date of enactment of the Act and expire on termination of the Act.

Section 308 would authorize the Federal Housing Administration and the Small Business Administration to make low interest loans to homeowners and small businesses for the purpose of installing insulation, storm windows, and more efficient heating units. Detailed requirements were set out to express the intent of Congress that small business enterprises should cooperate to the maximum extent possible to achieve the purposes of the Act and their varied needs should be considered by all levels of government in implementing emergency fuel shortage contingency programs. Any controls instituted should be equitably applied to large and small businesses and the unique problems of retailing establishments and small businesses should be considered in implementing the provisions of the Act to avoid discrimination and undue hardship.

House amendment

No provision.

Conference substitute

The Senate recedes.

Although the Senate receded from the provisions of their bill because of a jurisdictional question on the part of the House, the conferees agreed that the provisions of the Senate bill merited implementation by the appropriate agencies. The conferees urge that the Small Business Administration, and the Department of Housing and Urban Development would consider and implement regulations permitting assistance in the form of low interest loans to persons otherwise eligible for such assistance for the purposes of installing energy saving features in homes or places of business.

INTERNATIONAL AGREEMENTS

Senate bill

Section 202(b) would authorize the President to enter into agreements with foreign entities, or to take such other action as he deems necessary, with respect to trade in fossil fuels, to achieve the purposes of the legislation. Any formal agreement would be submitted to the Senate and would be operative but not final until the Senate had 15 days, at least 7 of which were legislative days, to disapprove the agreement.

Section 202(c) expresses the sense of Congress that the energy crisis is also an international problem and therefore the United States should attempt to reach an agreement with other member nations of the Organization for Economic Cooperation and Development with respect to supplies of energy available to the industrialized nations of the free world with special reference to joint or cooperative research and development of alternative sources of power.

House amendment

No provision.

Conference substitute

The Senate recedes.

Although the Senate receded on these provisions because of a jurisdictional problem on the House side, the conferees wish to make clear that the section was dropped without prejudice from the bill.

CONSULTATIONS WITH CANADA

Senate bill

Section 601 would direct the President to convene consultations with the Government of Canada at the earliest possible date to safeguard joint national interests through consultations on encouraging trade in natural gas, petroleum, and petroleum products between the two nations. The President must make an interim report to Congress on the progress of such consultations within forty-five days after enactment and a final report with legislative recommendations ninety days of enactment.

House amendment

No provision.

Conference substitute

The Senate recedes.

TITLE II.—COORDINATION WITH ENVIRONMENTAL PROTECTION REQUIREMENTS

SHORT-TERM AND LONG-TERM SUSPENSIONS

SHORT TERM

Senate bill

The Senate bill would have allowed temporary suspensions of any emission limitation requirement or compliance schedule contained in a state implementation plan, regardless of whether the origin of the suspended provision was in State, Federal, or local law. Suspensions could only be granted during the period commencing November 15, 1973, and ending August 15, 1974, and no suspension could last beyond November 1, 1974. Only currently existing stationary fuel-burning sources which had been deprived of their supplies of clean fuel by actions taken by the President under the Senate bill itself would have been eligible to receive for suspensions, and no suspension could be granted unless the Administrator of EPA found either (i) that a suspension was essential to enable clean fuels to be redistributed to another area in order to avoid or minimize violations of primary air quality standards, or (ii) that the source in question was not likely to have available a sufficient supply of clean fuels even after all practicable steps to allocate such fuels had been taken. Suspension would only last for as long as clean fuels were unavailable. Where practicable, a suspension would be conditioned on the source's agreeing to keep on hand an emergency supply of clean fuel to burn during periods of air stagnation. The Administrator could deny any suspension request if he found that an imminent and substantial endangerment to the health of persons would result from granting it.

Suspension applications would be heard under abbreviated administrative procedures, and would not be subject to judicial review under Sections 304 or 307 of the Clean Air Act.

SHORT TERM

House Amendment

The House amendment would have allowed the Administrator of EPA during the period between enactment and May 15, 1973, to suspend any fuel or emission limitation (including compliance schedules) contained in an applicable implementation plan. The only ground for granting such a suspension would be inability to comply with the suspended requirement due to unavailability of types or amounts of fuels. Interim requirements of emission control could be imposed as a condition of suspension.

No procedural requirements would apply to suspension applications under the terms of any law, and judicial review of their grant or denial would be severely restricted.

LONG TERM

Senate bill

The Senate bill provided for revisions of State implementation plans, which could be requested by either individual sources or by a State. The Administrator would be required to approve or disapprove suspension applications within 60 days if requested by a source, or within 120 days if requested by a State. For a revision requested by a source to be approved, the Administrator would have to determine, after notice and opportunity for presentation of views, (1) that the source was able to enter into a contract either for a permanent continuous emission reduction system which the Administrator determined to have been adequately demonstrated or for a long term supply of low sulfur fuel, and (2) that the revision was consistent with the implementation plan so that ambient air quality standards would still be attained. The Administrator's approval would have to be conditioned on the source actually entering into such contract. Any plan revision, whether requested by a source of a State, would have to include legally enforceable compliance schedules for the fuel burning sources affected by the revision. The schedule would establish continuous emission reduction measures to be employed by the sources, including interim steps of progress toward implementation of such measures, and would provide for alternate emission control measures that could be employed during the interim period before final compliance with the applicable emission limitations to minimize pollutant emissions. Any such revisions could defer compliance only until July 1, 1977, although a one-year extension pursuant to section 110(f) of the Act would be authorized.

LONG TERM

House amendment

The House amendment provided that the Administrator could suspend fuel or emission limitations upon his own motion or upon the application of a source of a State (1) if he found that the source could not comply because of the unavailability of types and amounts of fuels,

(2) if the suspension would not cause violations of a primary ambient air quality standard beyond the time provided for attainment of such standard in the plan, and (3) if the source were placed on a compliance schedule, with increments of progress, which would provide for the source to use methods of emission control that would assure continuing compliance with a natural ambient air quality standard as expeditiously as practicable. No such suspension could defer compliance beyond June 30, 1979. Notice and opportunity for presentation of views would be required before approval of any such suspension. The compliance schedule would have to include a date for entering into a contractual obligation for an emission reduction system which the Administrator had determined to be adequately demonstrated. A source could also construct and install such a system itself if it provided plans and specifications for installation of such a system. Sources were given the option of not providing a compliance schedule with a contract date, or plans for an emission reduction system, if the source elected (prior to May 15, 1977) not to provide one, and established to the satisfaction of the Administrator that it had binding, enforceable rights to sufficient low polluting fuels or other means of insuring long-term compliance. If such an election were made, the amendment would limit the suspension to no later than May 15, 1977. In granting suspensions, the Administrator could impose interim requirements to minimize adverse health effects before the primary ambient air quality standard was achieved and to assure maintenance of the standard where the suspension extended beyond the attainment date deadline.

The House amendment specifically provided that such interim requirements could include intermittent control measures which the Administrator determined to be reliable and enforceable and which would permit attainment and maintenance of primary ambient air quality standards during the suspension. The interim requirements would include the obligation to utilize fuels or emission reduction systems that would permit compliance with the suspended fuel or emission limitation when such fuels or systems became available. However, use of such fuel would not be required if the costs of changing the source to permit it to burn the fuel would be unreasonable.

The House amendment also provided additional provisions making the terms of such suspensions enforceable under the Clean Air Act and to require the Administrator to publish reports at 180-day intervals on the status and effect of such suspensions. Limited judicial review of any suspension was also specified.

A specific exemption of certain coal-fired steam electric generating plants from fuel or emission limitations was provided for in the House amendment. Only facilities which were to be permanently taken out of service by December 31, 1980, and which had certified such fact to the satisfaction of the Federal Power Commission would be eligible for such exemption. Interim requirements could, however, be imposed on such facilities. The suspension would be authorized whenever the Administrator determined that compliance was unreasonable in light of (1) the useful life of the facility, (2) the availability of rate increases, and (3) the risk to the public health and the environment of such exemption.

The House Amendment also contained a separate provision in section 106(b) which provided for suspension of fuel or emission limitations that would prohibit the use of coal with respect to any source which was ordered to convert to coal by the Administrator of the Federal Energy Administration pursuant to section 106(a) of the House bill or which had voluntarily begun to convert to coal prior to the effective date of the Act. The suspension would have extended to January 1, 1980, and would have been available only if the Administrator of the Environmental Protection Agency approved, after notice and opportunity for presentation of oral views, a plan submitted by the source. The plan would, in order to be approved, have to provide (1) that the power plant would use the control technology necessary to permit the source to comply with national ambient air quality standards as expeditiously as practicable; (2) that the power plant was placed on a schedule providing for the use of emission reduction systems as soon as practicable but no later than June 30, 1979, and (3) that the power plant would comply with such interim requirements as the Administrator of the Environmental Protection Agency prescribed to insure that the power plant would not contribute to a substantial risk to public health. Such plans were to be approved before May 15, 1974, or within 60 days after submittal if submitted after that date.

The Administrator of the Environmental Protection Agency was, however, authorized, after notice and opportunity for presentation of oral views, to prohibit the use of coal if he determined that the use of coal would be likely to materially contribute to a significant risk to public health, or to require the use of a particular grade of coal if it were available to the power plant.

Conference substitute

The conference substitute provides for short term suspension of stationary source fuel or emission limitations but, with one exception, does not authorize long term suspension of such limitations. The conference substitute adds a new section 119 to the Clean Air Act which will permit the Administrator of the Environmental Protection Agency to suspend until November 1, 1974, any stationary source fuel or emission limitation, either upon his own motion or upon the application of a source or a State, if the source cannot comply with such limitations because of the unavailability of fuel. The Administrator of the Environmental Protection Agency is directed to give prior notice to the Governor of the State and the chief executive of the local governmental unit where the source is located. He is also directed to give notice to the public and to allow for the expression of views on the suspension prior to granting it unless he finds that good cause exists for not providing such opportunity. Judicial review of such suspension would be restricted to certain specified grounds.

The Administrator is required to condition the granting of any suspension upon adoption of any interim requirements that he determines are reasonable and practicable. These interim requirements must include necessary reporting requirements, and a provision that the suspension would be inapplicable during any period when clean fuels were available to such source. The Administrator would be required to de-

termine when such fuels were in fact available. It is the intent of the conferees that the Administrator in making such determination take into consideration the costs associated with any changes that would be required to be made by the source to enable it to utilize such fuel. No source which has converted to coal under section 119, however, could be required under this provision to return to the use of oil.

The suspension would also be conditioned on adoption of such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to the health of persons. This would authorize not only requirements that a facility shut down during air pollution emergencies, but also (for example) a requirement that it keep a reserve supply of clean fuels on hand to be burned to avoid such emergencies.

The purpose of the short term suspension provision is to enable sources to continue operation during the immediate fuel shortage while at the same time limiting as much as possible the impact on air quality. In rejecting the provisions for long term suspensions, the conferees were of the opinion that more information and experience should be acquired before any long term postponement of emission limitations was authorized. If additional tools for dealing with energy shortages are needed by the end of 1974, the Congress can address the issue prior to that time. For this reason both the provisions in section 402 of S. 2589 and section 119(b) of section 201 of H.R. 11882 were rejected.

In recognition of the need to balance energy needs with environmental requirements and the unique problems facing any source which is converted to coal in response to the emergency, the conferees adopted a provision which provides that no fuel or emission limitation (as defined in the conference substitute) could have the effect of prohibiting any such source from burning coal. The conference version would prohibit the application of such fuel or emission limitations to sources which are either ordered to convert to coal or which began to convert to coal during the 90-day period prior to December 15, 1973. This prohibition against application of such limitation to such source could continue until as late as January 1, 1979. The prohibition would only apply if the source were placed after notice and opportunity for oral presentation of views, on a schedule approved by the Administrator of the Environmental Protection Agency. The schedule must provide a timetable for compliance with the fuel or emission limitations of the applicable plan no later than January 1, 1979, and must provide for compliance with interim requirements that will assure that the source will not materially contribute to a significant risk to public health.

The term "significant risk to public health" is used in several instances in section 119. The conferees are aware that the Environmental Protection Agency, taking its lead from the Senate Committee Report on section 303 of the Clean Air Amendments of 1970, has defined "imminent and substantial endangerment" by regulation as a significant risk to the health of persons and has specified levels for various pollutants which reflect its judgment as to where those risks occur. The conferees emphasized that the language which is used in this section is not used in the same sense as in the EPA regulations. Rather, the language of the conference substitute, as with the House-passed bill, deals with risks to health which are less severe than those specified by the Agency's "endangerment" regulations. What is intended

is that some violation of the national primary ambient air quality standards can be permitted so long as any of the public would not be exposed to significant health risks.

The timetable for compliance which must be included in the schedule will specify a means of compliance. If the source chooses to utilize low sulfur coal or coal by-products, so that the standards will be met without use of continuous emission reduction equipment the schedule must provide for compliance as expeditiously as practicable but no later than January 1, 1979. If the source elects to use fuel which will require the use of permanent emission reduction equipment, the schedule must provide that such equipment will be purchased, installed, tested, adjusted, and in operation in time to permit compliance no later than January 1, 1979. It is the intent of the conferees that when the source selects coal which will require the use of continuous emission reduction equipment, the source will have as much time as necessary to install the equipment and achieve compliance in order to permit the orderly development of technology.

In recognition of the complex factors involved in determining schedules for the various sources, the conferees intend that the Administrator have broad discretion in prescribing and approving schedules of compliance to insure that sources meet the requirements of this section without overburdening production capacity for continuous emission reduction systems or causing unacceptable disruption in energy production capacity.

In addition, the conference committee believes that sources which intend to rely on using coal that will meet applicable requirements without reliance on continuous emission reduction systems should enter into the necessary long-term supply contracts as soon as possible to assure opening new mines. It is expected that the Administrator would include, but would not be limited to, the following requirements in such schedule:

(1) the dates by which the source will solicit bids and enter into binding contractual agreements (or other equally binding commitment) for the procurement of an adequate fuel supply to permit continued long term operation of the source;

(2) where the coal obtained by the source has pollutant characteristics which will require installation of continuous emission reduction equipment to enable the source to comply with emission limitations, the dates for soliciting bids for such equipment, contracting for such equipment, and installation and start-up of such equipment by a date that will permit a reasonable time for necessary adjustments of the equipment to maximize the reliability and efficiency of the system prior to January 1, 1979; and

(3) reasonable interim measures which the source should employ to minimize the adverse impact on air quality.

In establishing dates for contracting for coal, the Administrator should determine the earliest date that is reasonable and which will permit compliance by the time specified in this section. Because the dates for obtaining fuels or system may occur at approximately the same time for more than one source which may overburden suppliers, the Administrator is specifically authorized to establish differing dates for obtaining fuels or equipment to insure availability of supplies

of such fuels or equipment. In making such decisions, it is expected that the Administrator will provide the earliest date for those sources in areas with the most serious pollution problems.

The provision relating to conversions under section 119(b) does not apply to fuel burning stationary sources which would propose to reconvert to petroleum products or natural gas. Only fuel burning stationary sources which select coal, receive EPA approval and submit a new compliance schedule which will achieve applicable emission limitations by January 1, 1979 can take advantage of section 119(b) beyond November 1, 1974. After November 1, 1974, fuel burning stationary sources which choose to reconvert to oil remain subject to compliance schedules which were applicable prior to the temporary suspension.

The conference bill does provide for two exceptions to the prohibition on enforcing fuel or emission limitations. The Administrator, or a State or local governmental unit, may, after notice and opportunity for presentation of oral views, if practicable, prohibit the use of coal if it is determined that such use will materially contribute to a significant risk to public health. The Administrator, or a State or local government unit, may also require that a source use a particular grade of coal or coal with particular pollutant characteristics if such coal is in fact available to such source.

The conference bill makes explicit that the period of inapplicability under section 119(b) of State implementation plan requirements may be extended for one year under the procedures of section 110(f) of the Clean Air Act. It is the intent of the conferees, however, that the requirement of that section be clearly satisfied before any one year suspension is granted; the conferees believe that requiring compliance by 1979 should permit adequate time for all sources to achieve compliance. The additional one year postponement to 1980 should only be necessary to accommodate strikes, natural disasters or other unanticipated occurrences that may prevent compliance by that time.

The House-passed bill would have permitted the use of so-called intermittent or alternative control strategies as a means of meeting ambient air quality standards if such strategies were determined by the Administrator to be reliable and enforceable. This permission would have applied to both existing sources not affected directly by the energy emergency and sources required to convert to coal under the emergency legislation.

The Senate bill would have permitted revision of existing implementation plans to require use of continuous emission reduction systems on any fuel-burning stationary sources affected by shortages of fuels, suspensions or conversions.

The conference agreement does not include either of the foregoing broad provisions. Instead, the conferees decided to limit the application of this provision to those sources which convert to combustion of coal as a result of the energy emergency. The conference substitute requires these converting sources to come into compliance with all plan requirements by 1979 (or 1980, if a postponement is obtained under section 110(f)) in accordance with a schedule which meets requirements of regulations of EPA. These requirements would require incremental steps toward compliance by utilization of low sulfur coal or

coal by-products, or by continuous emission reduction systems to permit the combustion of high sulfur coal (or coal with high ash content) in compliance with such plan requirements.

The right to continue to burn coal until January 1, 1979, would extend to sources which began converting to coal use at any time between September 17 and December 15, 1973. A source should be regarded as having begun a coal conversion if it has made significant efforts to obtain an adequate supply of coal to justify conversion, such as having solicited bids for an adequate coal supply. The Administrator would have to determine whether any such efforts were made in good faith as part of a determination by the source owner or operator to convert to coal in the face of anticipated short falls in its supply of petroleum or natural gas.

The conference bill includes the House amendment provision which authorizes the Administrator of the Environmental Protection Agency to allocate continuous emission reduction systems among users where supplies are less than demand. This provision is modified in the conference substitute to include the stipulation in the Senate bill that such allocation authority shall not impair the obligation of any contract entered into prior to the enactment of this Act.

STUDY AND REPORTS

The conference bill also adopts the provisions of the House bill which required the Administrator of the Environmental Protection Agency to report to Congress on the impact of fuel shortages on the Clean Air Act programs as well as other factors, including the availability of continuous emission control equipment. The Administrator would also have to publish periodic reports on compliance with requirements imposed as part of any suspension or coal conversion, and other information on the impact of the section. The only change from the House version was to provide for reports on all continuous emission reduction systems and not limit the report to scrubbers. The conference bill also retained the House bill provisions making the violation of any requirement imposed as part of the new section 119 subject to enforcement under section 113 of the Act. Finally, the conference version adopts the House bill provision preempting any State or local government from enforcing a fuel or emission limitation against a source granted a suspension under the section because of the availability of fuel to permit the source to comply with such fuel or emission limitation. Such preemption does not apply with respect to requirements which are identical to Federal interim requirements.

The conference bill adopts a provision similar to that in the House bill, which provided a specific exemption for electric generating plants which are scheduled to be permanently taken out of service by 1980. Unlike the House bill, the conference substitute authorizes a one year postponement of applicable plan requirements for certain power plants. To be eligible, the power plant must be on a schedule to cease operations by January 1, 1980. The Federal Power Commission must also determine that the facility will in good faith carry out such plan.

To obtain the one year postponement of an emission limitation which is part of a State implementation plan, the Governor of the State must

concur in the application to the Administrator of the Environmental Protection Agency. The Administrator shall consider the risk to the public health and welfare and only grant the postponement if he determines that compliance is not reasonable in light of the projected useful life of the plant and availability of rate increases, as well as other factors. He may prescribe such interim requirements as may be reasonable. The conferees limited this suspension to one year since it is intended that this bill only address the immediate energy emergency and the conferees do not intend for any electric generating facility to be shut down in the near future because of the infeasibility of employing required emission control measures due to the age of the facility. The Congress intends to review the long term energy problems and environmental needs during the next year and will consider such relief as may be justified to alleviate the problems presented to facilities, including power plants, which are scheduled to be phased out.

FUEL EXCHANGE AUTHORITY

House amendment

Section 205 of the House amendment would have directed the Administrator in establishing any allocation program to allocate low sulfur fuels to those areas of the country designated by the Administrator of EPA as requiring such fuels to avoid or minimize adverse health effects. This provision would have taken effect after May 15, 1974 and after such an allocation program had been established.

Section 205 would have further authorized the Administrator of EPA by rulemaking after informal hearings to issue binding exchange orders to persons subject to it. Such exchange orders would have been designed to avoid or minimize the adverse effects of any allocation program on public health. They would only have been authorized if substantial emission reduction would have resulted.

By virtue of Section 106(c), the House amendment would have explicitly authorized the Administrator to establish allocation programs for coal. If such a program were established, it would have been subject to the provisions of section 205.

Section 119(c), of the Clean Air Act, added by Section 201 of the House amendment, would have allowed the Administrator of EPA to establish by rule priorities for the supply of emissions reduction system so that they could be routed to users in regions with the most severe air pollution.

Senate bill

Section 203 of the Senate bill would have required any general priority and rationing program to provide to the extent practicable for allocation of low sulfur fuels to areas of the country designated by the Administrator of EPA as needing such fuels in order to avoid or minimize adverse impacts on public health.

The Administrator of EPA would be authorized under Section 402 of the Senate bill to further allocate low sulfur fuels within any such area. He would also be authorized to allocate emission reduction system first to users in air quality control regions with the most severe air pollution (except that no such action could affect existing controls).

Conference substitute

In order to assure the Administrator of the Environmental Protection Agency an adequate supply of information on the types, amounts, price, pollution characteristics and allocation of available fuels, it is expected that he will have access to all data available to the Administrator of the Federal Agency Administration.

Such information will assist in effective and timely performance of the Administrator of EPA's function under this section as well as those provisions relating to suspensions, conversions, enforcement, and other responsibilities of EPA.

The conferees expect that both the FEA and EPA Administrators will facilitate interagency cooperation and information exchange. EPA is expected to establish a permanent liaison in the office of the FEA Administrator for the duration of the emergency and the FEA Administrator is expected to do the same at EPA. This may reduce the confusion which can otherwise be expected to result from those decisions each agency is required to make under statutory authorization.

REVISIONS OF IMPLEMENTATION PLANS

Senate bill

The Senate bill provided that the Administrator of the Environmental Protection Agency was to review by May 1, 1974, all State implementation plans to determine if shortages of fuels or emission reduction systems, or any suspensions of emission limitations provided for in the bill (including future anticipated suspensions) would result in any plan failing to achieve the national ambient air quality standards within the time provided for in section 110 of the Clean Air Act. Where the results of review indicate that a plan would be inadequate, the Administrator would be directed to order those States to submit revisions to their plans by July 1, 1974, which would achieve the standards within the time limits. Two months were provided for the Administrator to review and approve or disapprove the plan revisions, and an additional two months were provided for him to promulgate regulations if a revision were not approvable.

House amendment

The House amendment contained a similar provision.

Conference substitute

The conference substitute provides that the Administrator will only review those plans for regions in which coal conversion under section 119(b) of the Clean Air Act may result in a failure to achieve a primary ambient air quality standard on schedule. The conference substitute directs the Administrator to order necessary plan revisions within one year after such conversion that would set forth any additional reasonable and practicable measures required to achieve ambient air quality standards. The plan revision would have to consider whether, despite the coal conversions, the standards could be achieved through the use of additional reasonable and practicable measures (which may include energy conservation measures) that were not included in the original plan. In allowing up to a year for the Administrator of the Environmental Protection Agency to act, it is the intent of the conferees to permit both the Administrator and the States suf-

ficient leadtime to develop adequate information on the impact of coal conversions, both effected and anticipated, and to permit accurate assessment of the additional measures required for State implementation plans.

The conferees expect that revisions under this section will be required only after careful consideration of a number of factors to assure that existing sources which do not convert will not be subjected to new requirements where such requirements are unreasonable or impractical. In determining reasonability and practicability, the Administrator shall consider whether the source is presently subject to requirements, is on schedule and has expended or is expending funds to comply. In this event, no requirement shall be imposed under this section which will require unreasonable additional expenditures. However, where reasonable measures can be imposed, without penalizing sources which are in compliance or are in the process of complying with the law, the Administrator shall impose such requirements.

TRANSPORTATION CONTROL PLANS

Senate bill

The Senate bill contained no provision relating to transportation control plans.

House amendment

The House amendment would have directed the Administrator, upon application by the Governor concerned, to extend until June 1, 1977, the date for achieving primary air quality standards in any air quality region subject to transportation controls which mandated a 20% or greater reduction in vehicle miles travelled by June 1, 1977, or imposed any transportation controls that could not be practicably implemented by that date. The Administrator could grant further extensions until January 1, 1985. These further extensions would be conditioned both on the application of all practicable interim control measures and on the attainment of at least a 10% annual improvement in air quality.

The House amendment would also have directed the Administrator to conduct a study of the necessity of parking surcharges, review of new parking facilities, and preferential bus/carpool lanes to achieve air quality standards. The Administrator would be required to report to the appropriate committees of the Congress within six months after enactment. Until such measures had been explicitly authorized by the Congress in subsequently enacted legislation, the Administrator could not require them to be included in an implementation plan, although he could approve such measures if they were submitted by the State. Previously promulgated regulations requiring such measures would be declared null and void.

Conference substitute

The conference substitute does not contain the provisions of the House amendment allowing modifications of the date by which primary ambient air quality standards must be achieved. The conferees expect the appropriate committees of the Congress to include in their re-examination of the Clean Air Act scheduled for the next session of the Congress, consideration of the effect modifications in new motor

vehicle emission standards will have on the ability to achieve the primary standards by statutory deadlines, as well as the practicability of various transportation control strategies within the time available.

The other related provision of the House amendment has been modified to provide that only parking surcharges (rather than surcharges, management of parking supply, and bus/carpool lanes) must receive the explicit authorization of the Congress before they may legally be imposed by the Environmental Protection Agency. The conference substitute would therefore continue to permit preferential bus/carpool lanes to be implemented by the Environmental Protection Agency as set forth in current transportation control plans. In implementing requirements for bus/carpool lanes, the basic responsibility rests with State and local governments and transportation agencies, and local hearings should be considered for specific proposals.

The conferees note that the appropriate committees with jurisdiction over the Clean Air Act will be reviewing the issues involved in transportation controls in hearings during the next session. The study mandated by this bill of the necessity and impact of these specific transportation controls will be useful to the committees in their inquiry.

In addition, the conferees direct the Administrator of the Environmental Protection Agency to review all the transportation controls which have been promulgated or proposed as to their efficacy and practicability, and to provide the appropriate committees with the results of that review in connection with hearings during 1974.

The conference substitute would also empower the Administrator of the Environmental Protection Agency to suspend for one year the review of new parking facilities. In response to inquiries by the conferees, the Administrator has provided a letter stating his intention to suspend these regulations under this authority.

U.S. Environmental Protection Agency,
Office of the Administrator,
Washington, D.C., December 19, 1973.

Senator Jennings Randolph,
Chairman, Senate Committee on Public Works,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: I would like to re-affirm for the record my understanding of our conversation yesterday on the subject of the "parking management" portions of EPA transportation control plans. I hope this letter will help to clarify EPA's position and that it will be useful to you in your continuing deliberations in the Senate-House conference on the Emergency Energy Bill.

I understand that based on provisions in the House Bill the conference committee has considered provisions which would by statute postpone requirements of parking management plans for at least one year and that consideration has also been given to an alternative provision which would simply authorize EPA to grant such an extension. You have asked what action EPA would take pursuant to such a grant of authority. As I stated to you, our position if such authority were granted would be to delay for one year from enactment (i.e. until December 1974) the effective date of parking management plans pro-

mulgated by EPA which would otherwise go into effect at an earlier date.

During this year-long suspension, EPA would continue to work with the States and localities and to provide assistance to them in developing plans which will result in the necessary reductions of vehicle miles traveled by automobiles which are required to meet the ambient air standards and thereby to achieve compliance with the Clean Air Act. During this year, EPA would not impose any postponement or restraint on action by the States and localities in furtherance of parking management plans of their own, and it is our hope that we can assist the States and localities in developing long-term strategies to achieve clean air in urban centers.

We believe that parking management plans can provide an effective tool toward meeting air quality needs. Effective use of this tool, however, does depend largely on the understanding and support of State and local officials and the general public in the individual cities in question. Further review during the one year suspension contemplated by the committee would facilitate better understanding and support for such measures.

I want to thank you for the courtesy and hospitality you extended to me and my EPA colleagues yesterday.

Sincerely yours,

JOHN R. QUARLES, Jr.,
Deputy Administrator.

U.S. ENVIRONMENTAL PROTECTION AGENCY,
OFFICE OF THE ADMINISTRATOR,
Washington, D.C., December 20, 1973.

Hon. PAUL G. ROGERS,
House of Representatives,
Washington, D.C.

DEAR MR. ROGERS: I am writing pursuant to our telephone conversation this morning concerning my letter to Senator Randolph dated yesterday (with a copy to you) about the parking management plans. In that letter I indicated that if granted authority under the Emergency Energy Act EPA would delay until one year from now the effective date of parking management plans.

You have expressed concern that I referred to parking management plans only in relationship to transportation control plans, whereas the proposed legislation would apply also to review of parking facilities under our proposed indirect source regulations. As I explained to you, our position with regard to both is the same.

Very truly yours,

JOHN R. QUARLES, Jr.,
Deputy Administrator.

Although the conferees do not believe that regulations on the management of parking supply should be made subject to prior congressional approval, they did conclude that a period for refining the criteria which will be used in the review of such facilities and establishing the administrative machinery to review them should be per-

mitted before the program is placed in operation. The conference substitute provides that when the suspension authority is exercised, no parking facility on which construction is initiated before January 1, 1975, would be subject to review for its impact on air quality as a result of any Environmental Protection Agency regulations on the management of parking supply.

In adopting these aspects of the conference substitute, the conferees do not intend to question either the need for, or the authority of the Administrator of the Environmental Protection Agency to impose, transportation control plans.

AUTO EMISSIONS

Senate bill

S. 2589, as passed by the Senate, would not have affected section 202 of the Clean Air Act. The conference committee notes, however, that on December 17, 1973, the Senate passed a bill, S. 2772, which would have extended through 1976 the interim hydrocarbon, carbon monoxide, and oxides of nitrogen emission standards established by the Administrator for model year 1975 vehicles.

House amendment

The House amendment would have amended section 202 of the Clean Air Act to defer the date for achieving the statutorily required 90% reduction in hydrocarbon and carbon monoxide automobile emissions. The date would have been deferred from model year 1976 until model year 1978. The House amendment would have required the interim hydrocarbon and carbon monoxide emission standards established by the Administrator for 1975 model year automobiles to also be applied in model years 1976 and 1977. Under the House amendment, the nitrogen oxides emission standards for 1976 model year automobiles could not exceed 3.1 grams per mile; for 1977 and subsequent model year automobiles emissions of oxides of nitrogen could not exceed 2.0 grams per mile.

In addition, the Administrator of the Environmental Protection Agency would be authorized to extend the deadline for achieving the ambient air quality standards in any air quality control region for up to two years to the extent he determined that an inability to achieve the standards on schedule would result solely from the modifications of the statutorily mandated auto emission levels and the deadlines for achieving those standards.

Conference substitute

The conference substitute amends section 202 of the Clean Air Act to continue the emission standards established by the Administrator for 1975 model year automobiles during the 1976 model year. The effect of this provision is to maintain in the 1976 model year a Federal 49-State standard of 1.5 grams per mile of hydrocarbons, 15.0 grams per mile of carbon monoxide and 3.1 grams per mile of oxides of nitrogen, and a standard for California of 0.9 grams per mile of hydrocarbons, 9.0 grams per mile of carbon monoxide, and 2.0 grams per mile of oxides of nitrogen. These standards apply to automobiles produced by all manufacturers, whether or not any individual manu-

facturer had applied for or received a suspension under section 202 (b) (5) previous to the enactment of this Act.

The conference substitute provides that after January 1, 1975, an automobile manufacturer may seek a single one-year suspension of the statutory standards for hydrocarbons and carbon monoxide applicable to the 1977 model year. The Administrator would be required to establish interim emission standards for 1977 model automobiles for hydrocarbons and carbon monoxide if he grants the suspension.

In authorizing the suspension for the 1977 model year, the conferees point out that one of the considerations advanced by Judge Levanthall in remanding EPA's decision not to authorize a suspension of the 1975 standards for one year was that adverse fuel economy would deter consumer purchasing of new automobiles, resulting in greater retention of old automobiles with inefficient pollution control devices. As Judge Levanthall pointed out, this might lead to a situation whereby denial of a suspension would result in greater total actual emissions of all cars in use than would be the case if a suspension were authorized. See *International Harvester Company, et al.* v. *Ruckelshaus*, 478 F.2d 615, 633–634 (February 20, 1973). If the Administrator is asked to authorize a suspension for HC and CO for model year 1977, and if the country is experiencing an energy crisis at the time a suspension is requested, the conferees would expect the Administrator to weigh carefully whether the application of the statutory standard would result in significant increase in fuel consumption.

The conference substitute amends section 202(b)(1)(B) of the Clean Air Act to establish a maximum emission standard for oxides of nitrogen of 2.0 grams per mile applicable nationwide to 1977 model year automobiles. This defers the previous statutory standard of 0.4 grams per mile of oxides of nitrogen until the 1978 model year. No administrative suspensions would be possible from either the 1977 or 1978 standard. While the 1977 model year standard is a maximum of 2.0 grams per mile nationwide, under the conference substitute California retains the right under section 209 of the Clean Air Act to seek a waiver for a more stringent standard.

The conferees are concerned with what may be unwarranted or, at least, untimely changes in EPA's certification test procedures for new automobile emissions. It is intended that uncertainty as to requirements for compliance with such standards be minimized. Any changes in test procedures shall be kept to an absolute minimum and should occur only where such changes improve instrumentation, reduce cost of testing or improve the reliability and validity of the test results.

The conference substitute does not contain the language of the House amendment providing for extensions of implementation plan deadlines in response to the changed standards and deadlines for automobile emissions.

REPORT LANGUAGE: FUEL ECONOMY STUDY

The fuel economy study requirement was amended to provide for joint conduct of the study with the Department of Transportation. The conferees insisted on a joint study to eliminate duplication with current, ongoing fuel economy studies.

The conferees expect, of course, that any current DOT studies will be coordinated with this study to eliminate any potential duplication and minimize waste of funds.

At the same time, the conferees agree that EPA must be actively involved in any fuel economy analysis to assure consistency between the findings of the study and the statutory requirements for automobile emission reductions.

The conferees recognize that DOT has an equally important safety responsibility but does not have either established test procedures, testing facilities or the expertise on engine technology to perform an independent review.

The conferees expect this study to utilize EPA's established emission test procedures in order to avoid inconsistency in any subsequent legislative recommendation.

TITLE III—REPORTS AND STUDIES

Senate bill

Section 204(c) would direct the President to develop and implement incentives for the use of public transportation. In addition, the Federal share of expenditures for buses and rail cars from the Highway Trust Fund increased to 80 percent.

Section 210 of the Senate bill would require the President, within 90 days after enactment of the legislation, to promulgate a plan for the development of hydroelectric resources. Such plan would provide for expeditious completion of projects authorized by Congress and for the planning of other projects designed to utilize available hydroelectric resources, including tidal power.

Under section 211, within 30 days of enactment of the legislation, the Secretaries of the Interior and of Commerce would prepare and submit to Congress a comprehensive review of U.S. export policies for energy sources. The purpose of this study would be to determine any inconsistencies between national energy trade policies and domestic fuel conservation efforts.

Section 303 would direct the Secretary of the Treasury and the Director of the Cost of Living Council to provide the Congress with recommended economic incentives to encourage both individuals and industry to subscribe to the purposes of the Act. An analysis of actions needed to effect payment by producers and users of the full cost of producing incremental energy supplies would also be required.

Under the second paragraph of section 313, the President would review all rulings and regulations issued under the Economic Stabilization Act to determine if they are contributing to the shortage of materials associated with the production of energy supplies and equiment necessary to maintain and increase the production of coal, crude oil, and other fuels.

The results of this review would be submitted to the Congress within 30 days after the date of enactment of this legislation.

Section 316 would require the Department of Health, Education, and Welfare, in cooperation with the EPA, to conduct a study of the health affects of emissions of sulphur oxide to the air resulting from any conversion to burning coal pursuant to section 204(a) of the Act.

The sum of $5 million would be authorized to be appropriated for such a study.

Section 317 would require the Council of Economic Advisors, in cooperation with other agencies and departments, to submit an Emergency Energy Economic Impact Report to the Congress which must include, but was not limited to, certain assessments of the impact of the energy shortage on employment, agriculture, various industries, commerce, and public services, as well as projections of its impact on the economy. A preliminary report would be filed thirty days after enactment and a final report no later than sixty days after enactment.

Section 402 would amend the Clean Air Act, as amended, to require the Administrator of the EPA to report to the Congress by May 1, 1974, on the extent to which any applicable State or local air pollution requirement or deadline may adversely affect the implementation of the National Energy Emergency Act or of the proposed amendments to the Clean Air Act.

House amendment

The provisions of section 104(d) of the House amendment parallel Section 313 of the Senate bill are almost the same, except that the responsibility for conducting the review would be vested in the President and the Administrator of the Federal Energy Administration.

Section 105(d) would require energy conservation plans to include proposals to provide for Federally sponsored incentives for the use of public transportation and Federal subsidies to maintain or reduce existing fares and additional expenses incurred because of increased service.

Section 121 of the House amendment is the same as the provision of Section 211 in the Senate bill, except that (1) the report under the House version would also cover foreign investment in production of energy sources and be included for the purpose of determining any inconsistencies between such investment and domestic conservation efforts, and (2) the report would have to be submitted within 90 days of enactment of the legislation rather than 30 days.

Under section 127 the Administrator would be required to prepare and submit within 90 days after enactment of the legislation a plan for encouraging the conversion of coal to crude oil and other liquid and gaseous hydrocarbons.

Section 207 would require the Administrator of the Environmental Protection Agency to report to the Congress by January 31, 1975, on the implementation of sections 201–205 of this title.

(Additional language to come.)

of Health, Education, and Welfare and the Environmental Protection Agency of the health effects of sulphur oxide conversions, except that the sum authorized was $2 million.

Section 206(a) would direct the Federal Energy Administration to conduct a study on energy conservation methods and to report the results to the Congress within six months of enactment. The study must address the energy conservation potential of restrictions on export of fuels and energy-intensive products (including balance of payments and foreign relations implications); federally sponsored incentives for public transit use and Federal authority to increase public transit facilities; alternative requirements, incentives, or disincentives for increasing recycling and resource recovery to reduce demands

on energy (including a comparison of the economic and fuel impacts of such recycling and resource recovery with the transportation and use of virgin materials); the costs and benefits of electrifying high traffic rail lines; and means for incentives or disincentives to decrease industrial use of energy.

Section 206(b) would require the Secretary of Transportation, after consulting with the Federal Energy Administrator, to submit to the Congress within 90 days of enactment an "Emergency Mass Transportation Assistance Plan" to expand and improve public mass transportation systems and encourage increased ridership. This plan must include, but is not limited to recommendations for: emergency temporary grants to assist States and local public bodies in payment of operating expenses for expanded urban mass transportation service; additional emergency assistance for the purchase of buses and rolling stock and the construction of fringe parking facilities; demonstration projects to determine feasibility of fare-free and low-fare urban mass transportation system; and the feasibility of providing tax incentives for users or urban mass transportation systems.

Section 206(d) would provide that no later than December 31, 1974, the Secretary of Transportation, in consultation with the Federal Energy Administrator, must also study and report to the Congress on the development of a high-speed ground transportation system between the cities of Tijuana, Mexico and Vancouver, British Columbia, Canada.

Section 208 would direct the President, within 90 days following enactment, to recommend to the Congress actions to be taken by the Executive and the Congress regarding siting of all types of energy producing facilities.

Section 209 would amend the Clean Air Act by directing the Administrator of EPA to conduct a study of the feasibility of establishing a fuel economy improvement standard of 20% for 1980 and subsequent model year new motor vehicles. A report on the study must be submitted to the Congress within 120 days after enactment, and the Administrator must consult with designated Federal agencies in the course of the performance of the study. The Administrator would be directed to fully examine the problems associated with obtaining a 20% improvement in fuel economy. The study must include technological problems, costs, relation to safety and emission standards as well as energy impact and enforcement. The agency would be authorized to obtain information for the study under its section 307(a) powers.

Conference substitute

Title III contains a number of provisions for studies to be conducted. Recognizing the merit of these provisions, the Conferees included them in this bill although they will not necessarily contribute to the relief of the immediate energy emergency.

The Conferees provided for three categories of studies and reports to be made to Congress. The first provides for immediate recommendations on means for near term increases in energy supply or reductions

in energy consumption. The second set of studies and reports deal with longer term methods for achieving these same objectives. The third class of reports essentially reserve to the Congress an oversight function on the implementation of this Act, by requiring reports from the President to the Congress every 60 days on the implementation and administration of this Act and the Emergency Petroleum Allocation Act of 1973, and an assessment of the results attained thereby.

The conferees recognize that increased use of mass transit is essential to energy conservation both in the short term and in the longer run. For this reason, the conferees wish to call attention to the adoption of several studies dealing with the major energy conservation measures. The first is a Senate-sponsored provision to provide for plans for Federal subsidies to mass transit systems for reduced fares and operating costs. The details of this plan will be subject to Congressional approval, prior to implementation. The conferees believe that such incentives to greater use of mass transit coupled with reduced use of personal vehicles, can result in significant energy saving.

In addition, to reflect the need for improving mass transit in the longer run as well the conferees adopted a number of provisions providing for study of various mass transit systems.

In the first class of studies which are to be completed with a report submitted to Congress within 30 days after enactment of the Act, the conference substitute adopted the following studies:

From the Senate bill—

Of the rulings and regulations issued pursuant to the Economic Stabilization Act, by the Administrator of the FEEA on methods of energy conservation and production by all Federal agencies.

On specific incentives to increase energy supply and reduce consumption, by the Secretary of the Treasury and the Director of the Cost of Living Council.

On the impact of energy shortages on employment, by the Administrator of the FEEA.

From the House amendment:

A comprehensive review of United States exports and foreign investment policies by the Secretaries of the Interior and Commerce

The second group of studies adopted in the Conference substitute, to be completed with a report submitted to Congress within 6 months from the date of enactment, include the following:

From the Senate bill:

From section 204(c) of the Senate bill, a plan to be submitted to the Congress for approval, to provide federally-sponsored incentives for increased use of mass transit, by the Administrator of the Federal Energy Emergency Administration.

Of the potential for further development of hydroelectric power resources, by the Administrator of Federal Energy Emergency Administration.

From Section 207(d) of methods for accelerated leasing of energy resources on public lands, by the Secretary of the Interior.

From the House amendment:

Of energy facility siting problem, by the Administrator of the Federal Energy Emergency Administration.

On the potential for conversion of coal to synthetic oil or gas, by the Administrator of the Federal Energy Emergency Administration.

HARLEY O. STAGGERS,
TORBERT H. MACDONALD,
JOHN E. MOSS,
PAUL G. ROGERS,
JAMES T. BROYHILL,
J. F. HASTINGS,
Managers on the Part of the House.

HENRY M. JACKSON,
ALAN BIBLE,
LEE METCALF,
JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
HOWARD BAKER,
ADLAI STEVENSON III,
TED STEVENS,
Managers on the Part of the Senate.

○